PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-FOURTH PARLIAMENT

FIRST SESSION

16 May 2001

(extract from Book 4)

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By authority of the Victorian Government Printer

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WEDNESDAY, 16 MAY 2001

QUESTIONS ON NOTICE

WEDNESDAY, 16 MAY 2001

Wednesday, 16 May 2001

The PRESIDENT (Hon. B. A. Chamberlain) took the chair at 10.04 a.m. and read the prayer.

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.

PETITION

Gas: Creswick supply

Hon. D. G. HADDEN (Ballarat) presented a petition from certain citizens of Victoria praying that the government give due consideration to the importance of extending the natural gas pipeline and reticulated natural gas to the town and environs of Creswick (238 signatures).

Laid on table.

BUDGET PAPERS, 2001–02

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

That there be laid before this house a copy of the following 2001–02 budget papers:

(a) Treasurer's speech (budget paper no. 1);

(b) Budget statement (budget paper no. 2);

(c) Budget estimates (budget paper no. 3);

(d) Budget overview; and

(e) *Growing the Whole State.*

Motion agreed to.

Laid on table.

Ordered to be considered next day on motion of Hon. C. C. BROAD (Minister for Energy and Resources).

PAPERS

Laid on table by Clerk:

Adult Parole Board — Report, 1999–2000.

Auditor-General — Report on Teaching equipment in the Technical and Further Education sector, May 2001.

FARMERS: RIGHT TO FARM

Hon. PHILIP DAVIS (Gippsland) — I move:

That this house condemns the government for its failure to implement its election promise of legislative protection of farmers' right to farm.

It is appropriate that the house debate this serious issue today, because one of the obligations of the opposition is to take the government to task for its omissions of duty of care to Victorians. Clearly, where the Labor Party has walked away from a specific commitment it made to Victorian farmers, the opposition needs to ensure that not just this house but all Victorians are made aware of another broken election promise.

The attitude of the government to all matters, but particularly to the right to farm, is well summarised in a comment by Peter Walsh, president of the Victorian Farmers Federation (VFF), published in the federation's magazine of February 2001, which states in part:

The foundations of our previous good relationship with the government were laid during the period when the Labor Party was in opposition. However, the Labor Party in government appears to have adopted a different approach to agricultural issues from the Labor Party in opposition.

That summarises the problem. The ALP's agriculture policy document says under the heading 'Right to farm':

Victorian Labor recognises the need for legislative protection of farmers' right to farm.

What is the reason for moving the motion? It is clear that the former opposition made the right to farm an issue around rural Victoria in the lead-up to the 1999 state election. The then shadow minister for agriculture and sometime Leader of the Opposition was stridently critical of the then government on this issue and raised expectations among farmers throughout the state that on coming to office the then opposition would implement a policy to give farmers legislative protection from the interference they so often complained of because of regulatory, and more particularly, demographic change.

Victoria comprises only 3 per cent of the land mass of Australia — a small area of the country — but has significant agricultural output, and excluding dairy

contributes about 15 to 20 per cent of all products from broadacre farming. In addition it dominates the dairy industry, with about 65 per cent of the total Australian output of dairy production coming from Victoria. One of the issues confronting Victorian farmers is clearly the burden being imposed on them as we see an expansion of the urban sprawl in both metropolitan and provincial cities. People are attracted to regional environments for lifestyle reasons or because they have some romanticised view of what country living might be — some vision of something out of a television program such as *All Creatures Great and Small* — but are not cognisant of the fact that farming is a commercial activity that requires the utilisation of machinery, chemicals and the usual activity of managing animals.

In moving the motion I am acknowledging that the government has taken some action about the right-to-farm issue by establishing a committee in April 2000, undertaking a review and producing a report. However, it did not introduce legislation, and in establishing the committee abrogated its responsibility to implement its election commitment. When the committee reported in December last year the Minister for Agriculture took some four months to deal with the report. The government's response again highlights the abdication of its policy commitment to rural Victorians, particularly farmers.

The committee's report contains two explicit references to legislative reform, including a recommendation concerning amendments to the Sale of Land Act to include a warning about possible amenity impacts on agricultural practices and processes on adjacent properties. This was one recommendation in the report to the government, yet despite its having a policy commitment to legislate in this area the best the government could do was advise that it would effectively refer that recommendation to another committee, in these terms:

> The required legislative changes will be considered in a review of the Sale of Land Act later this year.

I would have thought that at the very minimum the government could have responded with acclamation to that limited recommendation from the working party. It is clear that the working party was operating under instructions from the government to lower expectations about what the legislative response from the government should be. Clearly it was a minimalist approach and was not reflective of the ALP's policy position, inasmuch as the policy position was to make explicit legislative reform and to create a right-to-farm principle in this state.

For those honourable members who are not familiar with this general subject, I should say that the impacts of conflict between agricultural activity and the urban encroachment into farming areas have been with us for many years. Today we have a developing and viable horticultural industry that is growing significantly. It is a traditional industry that is typically located in areas where there is an aspiration for residential and small-lot subdivision, which immediately brings that horticultural activity into conflict with those people who, if you like, migrate from urban to what are becoming semirural areas.

I shall refer to a number of cases to illustrate the point. The most prominent that has arisen in recent times, which honourable members may recall, was the conflict involving a dairy farmer in south-western Victoria who had a problem of moving his cattle between blocks of land. This issue arose as a consequence of an application by what could be described as weekend, hobby or lifestyle farmers — people who resided in Brighton and used their property at weekends who found the movement of cattle along the road between the dairy farmer's principal property and the other land he owned and grazed to be offensive.

This matter ultimately found its way through the courts and to a reasonable outcome, but initially at the Magistrates Court level a finding was made against the dairy farmer, which caused a great deal of consternation in 1999 throughout rural Victoria. While Magistrates Court decisions do not establish precedents, it certainly gave an indication of a possible adverse impact on all farmers involved in moving livestock. Consequently an appeal to the Supreme Court was supported by the Victorian Farmers Federation, and the outcome was that the Magistrates Court decision was overturned.

However, in those circumstances, Mr Jeffrey, the dairy farmer, was in an invidious position and without the support of the farmers federation he would have been in a very difficult strait given that he had significant legal bills in the order of $30 000.

Although that is the most recent case of significant prominence that people may recall, many issues are associated with the term 'right to farm' and we need to try to define the concept. For some people the issues are about being able to manage their land appropriately, including being able to clear native vegetation and having to address the implications of changing planning laws, which have a profound effect on different land use. Predominantly, the concept of the right to farm has revolved about conflict between farmers and non-farmers because of what are broadly described as nuisance claims.

I refer to some specific examples. For instance, complaints are made about fans operating at night in stone fruit-growing districts, where fans are used to maintain air movement to reduce the impact of frost on fruit. Complaints are made about noise devices for scaring birds. The typically gas-operated cannons are used to scare birds from vineyards and similar horticultural locations. The complaints generally arise from people described as hobby farmers who are not familiar with such activities. Complaints that went to the predecessor of the Victorian Civil and Administrative Tribunal related to noise and lights from tractors operating at night, when land-grading activities are undertaken, associated with improving the topography of irrigated dairy farms, for example.

Complaints are made about water irrigation pumps operating at night with off-peak electricity. Diesel motor-driven pumps operate at night to maintain the irrigation activity on a farm, which may be a traditional use. I have had experience of trying to resolve such a dispute just outside Bairnsdale. A very well-meaning family who moved to what they considered an attractive rural location on the edge of the Mitchell River found their quiet enjoyment was regularly interrupted by the adjoining farmer, who wanted to retain his productivity by maintaining pasture growth by irrigating his pastures. They could not understand why that activity could not be undertaken during daylight hours and they complained regularly about the noise interference, which obviously they had not been aware of before they moved to that place.

Complaints are made about dairy farmers operating their dairies in the early hours of the morning. Other complaints about noise issues include those associated with quarrying on farmland. For example, a farmer at Timboon is quarrying limestone. Although that is not an agricultural pursuit, a farmer is undertaking the quarrying. Contractors harvesting grapes at night have been interrupted — even by police. Complaints have been made about dehydrators used in the Sunraysia area.

Many honourable members would know that broiler chicken farming has been long established on the Mornington Peninsula, which in recent years has become a location to which many city people have been attracted because of the lifestyle. Significant conflict is arising between the activities of the broiler chicken producers and the balance of the community. I will return later to address that quite complex issue.

Complaints have been made about a turkey farm at St Arnaud, where residents on small blocks close to the farm are concerned about the odour and dust created by the activities on the farm. There are always complaints about manure spreading because of the odour associated with that activity.

One of the major issues identified around the state — and this can be a conflict between farmer and farmer, not just farmer and non-farmer neighbours — is spray drift. There are a number of examples of a vineyard operator undertaking a traditional spraying operation being inhibited because of complaints about the impact of spray drift on neighbouring farming activity. It is certainly necessary to recognise that any spray drift — including from aerial spray applications — from sprays used on broadacre crops can impact adversely on a horticulture crop. So there are many examples of conflict between farmers.

There are increasing numbers of reports of difficulties about plantations. As the state has moved into a fairly aggressive promotion of private plantation forestry, conflicts have arisen about harvesting operations. Regular complaints have been made about trucks operating in the early hours of the morning.

There is an issue about the change in the landscape. Surprisingly, while people may have a very strong view about the environment and like to see trees planted, once the plantations go in and the rolling plains cease to be rolling plains and become forests, complaints are heard. There are some legitimate issues, as honourable members have discussed before, about the impact on small rural communities when there is a change of land use that alters the socioeconomic structure of that community, as has been seen in recent years in south-western Victoria. That is not an issue directly related to the matter under discussion but it is a consequence and outcome of it.

There have been reports in the Yarra Valley of complaints about the visual amenity being affected by the management of vineyards. For example, complaints were made about bird netting on vineyards in the Yarra Valley, because the residents did not consider that an attractive activity. So there are complaints about aesthetic value.

There are concerns about tractor lights flashing across house windows at night, and in Cranbourne there was the example of a farmer baling hay at night. His baling activities were stopped on the basis of complaints about the tractor lights interfering with residents in private dwellings. In the Yarra Valley there have been complaints about the colour of plastic greenhouses.

One of the big environmental issues is nutrient run-off and its potential impact on rivers, streams and lakes.

Pressure is increasing for better management of nutrients. As herd sizes on dairy farms expand, that issue will come to light more and more. They are just some of the reasonable examples to cite to put the discussion into context.

It is therefore important to understand that the motion deals with a suite of issues that impact on traditional farming activities. Although it is true that generally people would argue that a traditional activity should be able to persist without interference — providing it meets reasonable community standards and practices — a problem arises because traditional activities have evolved over time and the nature of the technology changes. Tractors get bigger and dairy herds increase. In recent years Victoria has seen enormous growth in the size of dairy herds. Ten years ago an average herd size was approximately 150 to 160 cows, but by the end of this decade the average herd size in Victoria will be 250 cows. I am aware of herds comprising 800 to 900 and sometimes 1200 cows. Those large herds present challenges in themselves. It is important to recognise that for agriculture to remain viable, traditional activities must adapt to the technology that is available and to the cost pressures imposed on them.

It is important to understand that many years of discussion on this issue have taken place. I have delved into my files, and thanks to my predecessor in Gippsland Province, the Honourable Dick Long — —

Hon. W. R. Baxter interjected.

Hon. PHILIP DAVIS — No, I will not thank the staff; the Honourable Dick Long bequeathed this document to me.

Hon. W. R. Baxter — He is not dead yet!

Hon. PHILIP DAVIS — I beg your pardon, yes. He left it to me in the file. I refer to a 1991 review of rural land use in Victoria.

Hon. G. R. Craige — 1991?

Hon. PHILIP DAVIS — Yes, 1991. It is amazing, isn't it! Ten years ago the government and the Parliament were discussing the same issues. I cite that document only to illustrate that this important issue has been before various governments over a long time.

I recognise the contribution to the debate of the honourable member for Swan Hill in the other place. In 1998 the honourable member tried to put the right-to-farm issue back on the agenda in a parliamentary sense. He did that quite effectively and at a time coincidental to the Victorian Farmers Federation raising the issue. The VFF started campaigning for attention to this matter as early as January 1999, the looming election year. The VFF wrote to all rural members of Parliament at that time asking them to take up this issue. In meetings held in January with the then Minister for Agriculture and Resources, Pat McNamara, the VFF put the right-to-farm issue on the agenda. The then minister established a review committee to look at the issue on behalf of the then Kennett government.

The committee was established in April 1999 and was due to report in September of that year. Were it not for the fact of an election interceding, the report of that working group would have been available to the then government for action. Clearly there is some history to this matter.

Constructive debate has taken place, but clearly the policy position of the VFF at the time of the election is relevant to consider, given that it was coincidental with the expressed view of the then opposition and now government members. I turn to the policy statement of the VFF on the right to farm. In summary the policy states that the VFF is seeking:

> … support for the concept of right-to-farm legislation when it is raised in Parliament.

Leading up to the 1999 election a vigorous campaign was run through the rural media. Obviously there was discussion between the VFF and the ALP. The consequence was, as I alluded to at the commencement of this debate, that the ALP took to the election an explicit policy commitment that:

> … the Victorian Labor Party recognises the need for legislative protection of farmers' right to farm.

I do not propose to argue about what was in the Kennett government review because it was in draft form and obviously never circulated in the public domain. However, it certainly identified the issues that needed to be addressed.

I do not intend to debate the merits of the paper that was produced by the government's recent working party. I acknowledge that the participants, who were primarily the Municipal Association of Victoria and the VFF, because they were parties to that process, publicly signed off on it. However, it was explicitly clear to me that the recommendations did not go nearly as far as the VFF policy. Certainly they did not go anywhere near the ALP policy position, and that is what the house is considering today. The question is: is it practical to introduce right-to-farm legislation? It is a matter for the

government to determine, but when one considers that 50 states in the United States of America have right-to-farm legislation in one form or another, one notes that clearly it is possible to devise schemes that protect the rights of farmers to go about their business. Further, Australia has statutes that deal with this issue.

In Western Australia the Agricultural Practices (Disputes) Act is really about resolving disputes, as I alluded to earlier in my remarks. Tasmania introduced the Primary Industry Activities Protection Act, which is effectively a right-to-farm protection act. That has now become redundant as a consequence of subsequent environmental legislation, but it was a contemporary piece of legislation at the time.

It is not good enough for the government to shelter behind a proposal that this is a bit difficult — I suppose I am pre-empting the minister's response, but presumably the government will say, 'It is all too hard and we could not find a way of devising legislation to meet the expectation of the community'. The government came to office with an explicit commitment to introduce legislation, but it has not appeared. The review committee it established as a cop-out on the issue made a specific recommendation about legislative reform to the Sale of Land Act, yet again the government failed to commit to implementing legislative reform. The best it could do was advise that it would be considered at some time in the future. In conclusion I make the point that it is important that we protect an industry that is very important in Australia, particularly in Victoria.

I turn to reflect on comments that came out of a recent survey conducted by the VFF on the public image of farming and agriculture. The VFF surveyed primary school children in the 9 to 13 age range to gauge their perception of farming. It was disturbing to find that 82 per cent of the children would not consider a job in agriculture and that over 50 per cent said that cotton comes from sheep. As somebody who has spent a lifetime in agriculture I find it incomprehensible that some people do not know where milk comes from. Plenty of survey reports indicate that to many urban dwellers the notions of a cow and milk are two distinct concepts.

In recent weeks it was my pleasure to take a number of my parliamentary colleagues to Gippsland on various investigations to inform them about the productive nature of the area and the employment opportunities that exist in agriculture and horticulture. For example, a couple of weeks ago a group visited a vegetable-growing operation on the Lindenow Flats near Bairnsdale. The Ingram family at Bonnacord directly employs 80 people in its operation, and the multiplier effect of that is significant. That is just one very successful horticulture establishment. The opportunity for employment growth in regional Victoria will be limited if the government does not act to ensure that the right to farm is protected.

Hon. B. W. BISHOP (North Western) — It is a pleasure to talk about the right to farm on two counts — as a representative of the National Party and from my personal point of view. I have been a farmer most of my life and my family has close interests in farming, which I am sure will continue. There is no doubt that this very important issue has many facets — so many that I could not hope to recognise all of them but will try to think of some. They are stability; equity; protection across all our communities, whatever their interests might be; opportunity; investment; and employment — and the list goes on and on. It is a particularly complex issue.

A huge amount of work has been done over the years, particularly over the past few years — I will come to that shortly — and I believe the National Party has worked through the issues. My friend the Honourable Philip Davis quoted from the February edition of the Victorian Farmers Federation (VFF) publication *Victorian Farmer*. The headline at page 10 of the April edition is 'Government recognises right to farm'. The first paragraph states:

> The recommendations of the government's right-to-farm working group is an important step in clarifying the rights and obligations of farmers although, realistically it will not solve all of the problems that farmers lump together under the collective heading of right-to-farm issues.

I suspect that is also where the National Party stands, which I hope to articulate as my contribution continues.

Some may say that the pace of the right-to-farm process has been pedestrian, and although that is probably a reasonable suggestion, it is a complex issue that has taken time. I have always had a problem with planning because every time I talk to planners in a municipal area they seem to create an air of mystique around the issue. I do not know whether that is done to confuse the ordinary gentry who wish to discuss the issue, but all I will say about planning is that once it is done and a decision is made it is jolly hard to turn it around, so we need to be careful about how we set in place the structures for the right to farm, because many of them involve planning.

This issue was not a problem in the early days; only as society has matured and changed its ways has it become a problem that needs to be addressed. Much of

it has come about from the urban sprawl in metropolitan and regional areas around Victoria and Australia, much of which is driven by lifestyle. Some people who think they need a country retreat and are prepared to commute to a regional centre buy a house down by the creek to enjoy a country lifestyle. That is part of what I call the understanding gap between city and country. A journalist I knew named Ronald Anderson, who passed away a number of years ago, wrote a particularly good article on the understanding gap between city and country and the need for us all to cooperate and work towards bridging that gap, because at the end of the day nothing will work unless we have a cooperative approach to the issue.

Last week in this city and this Parliament we celebrated the centenary of Federation — the joining together of all Australians. That is an example we would do well to follow on this issue. I make the strong point that if Victoria wishes to achieve — as both the previous government and this government have said they wished to achieve — $12 billion in food exports by 2010, thereby bringing in new dollars and creating employment and prosperity, there will need to be cooperation across all these areas. It is essential that underpinning all that there be acceptable farming practices. We need the correct standards and codes of practice that can be drawn together through industry and departmental involvement. However, let us also ensure that it is a practical and workable approach which will withstand the test of time — substantial time — but which may need to be adjusted in the future.

It is important to examine some of the issues, many of which are driven by lifestyle. Some of the points to which I will refer have been mentioned by my colleague the Honourable Philip Davis, but I want to run through some issues.

As I said, a lifestyle decision is made by someone wishing to buy a house in a country setting. They find a wonderful setting where they can hear the birds and very little other noise when they look at the property, which is next to a creek. The property is fairly close to the city or a regional centre and presents a wonderful lifestyle. Everything appears lovely. One of the neighbours is a farmer who has lived in the area for 50-odd years. He has a pump on the river, essentially to pump stock and domestic water and probably irrigation water. There have been cases where people, driven by lifestyle, move into the area and then object to the necessary operation of the irrigation pump on the creek. It has been there for probably more than 50 years.

The Honourable Philip Davis mentioned a recent legal case involving dairy cows on a road. I will not go into the detail except to say that the case was found in favour of the farmer, but at substantial cost and stress to all parties, which was totally unnecessary. We should be able to work through the issues to ensure such a situation does not occur again and work to implement a better set of rules.

There have also been problems with broiler production and poultry farms. In my electorate there are huge broiler and poultry farms where the owners have gone to the substantial expense of buying huge areas of land around their operation as buffer areas. They have planted trees and done everything one could possibly think of to ensure that their vital industry, which brings huge employment to those areas, is well suited and sustainable and that it is understood by the people around them so that they can go on to produce the products to earn export dollars.

Piggeries are another example that always comes to mind — some might say nose. A new piggery is being built in the Swan Hill area and the Honourable Barry Steggall, the member for Swan Hill in another place, and I visited it the other day. The owners of the piggery have invested a lot of money to buy a buffer zone around the piggery. More than that, they have undertaken a huge capital works program relative to the guidelines that have been laid down in respect of the effluent from the farm. They have lined effluent dams and have done everything necessary. I was most impressed by the attitude and the professionalism of those people in ensuring that what they put in place will be sustainable into the future.

Another issue much closer to home is that of grape harvesters. As with many of these examples, grape harvesters were not an issue years ago because they had not been invented. If it was a bit of a light year in the Mallee many of us went and picked grapes. It is a pretty tough way to earn a dollar.

Hon. P. R. Hall — Do you good!

Hon. B. W. BISHOP — It did do me good. It was character building and good for the physical being as well.

Hon. E. G. Stoney — You don't still pick grapes?

Hon. B. W. BISHOP — I do not pick grapes any more. Years ago there were no grape harvesters. The whole industry has changed, although the vines are still there. They have been there since we picked grapes, as did many others, for dried fruit or for the wineries. Of course, agriculture has been rationalised. There are

bigger properties that are mechanised to ensure the product, such as grapes for wineries, is taken off at the right time, and the right time is at night. Grapes cannot be mechanically harvested during the daytime because of the heat of the day. Grapes must be cool when they are delivered to the wineries. There may be some days when that can be done, but generally the harvesting is done at night.

In the Sunraysia area there have been a number of complaints and people have been stopped from harvesting. In fact, over the river in the Wentworth area there have been instances of not only stopping the grape harvesters from working at night but also stopping them from moving along the road as they go from property to property. That is another example of where an activity was okay years ago, but things have changed so that we need some reasonable and sensible rules to ensure that primary production can continue its task of earning the export and domestic dollars for this country.

There are even instances of complaints about the colour of bird netting used to protect the fruit in some orchards. That is stretching the issue. People say it ruins the look of the landscape.

The Honourable Philip Davis also spoke about the operation of scare guns. They are not used for fun but to protect primary industry so that it can contribute to the economy on which we so heavily rely.

Hon. P. R. Hall — What about the colour of the plastic on silage?

Hon. B. W. BISHOP — The colour of the plastic has been raised in relation to the coverage of the grain silos. That is very good form, Mr Hall, knowing about grain silos.

Hon. P. R. Hall — I was talking about silage.

Hon. B. W. BISHOP — Grain bunkers and silage. I am not aware of any complaints about the plastic covers that go over the top of the table grapevines in areas that produce table grapes. When one flies into an area such as Mildura the white plastic running in absolutely perfect rows across the table grape properties looks great, but I am wondering how long it will be before someone objects to that. Again, that is absolutely necessary for agriculture to sustain its ability to produce the right products for the right market, and it is obviously market driven.

I recollect an incident in the Mallee — which is a great place — where a farmer was stopped from cultivating a paddock because of dust. It may be an extreme case and I do not have the full details. However, it was an issue about the management of agriculture throughout the state.

I refer to another example of a golf club just over the river from Victoria. It is a great golf club with a motel that offers superb service to people who wish to stay there and play golf. For years there has been irrigated and dryland agriculture on the land around the golf club. The golf club was built, the motel was built, and the agriculture continued around them. The farmer who was carrying out the dryland agriculture was asked to pay compensation because of the dust that was getting into the motel building. It is pretty hard to cultivate dry land in dryland agriculture without raising some dust. Again, we need a sensible and reasonable set of rules to ensure that agriculture can get on with its job and the tourism industry and recreational industries and others can get on with their particular jobs.

I refer again to broadacre farming in Victoria, mainly in the Wimmera and the Mallee. Anyone who has observed that industry would have noted that over the years the machines have grown larger. In fact, they are immense machines now. My father used to say they could do more in 2 hours than he would do in a week.

As Mr Baxter would know, they are large machines up to 15 metres wide or even wider. Obviously machines that wide cannot travel along country roads. Even though the machines fold up, they are still quite high. Some farmers have visited their municipalities and the Department of Natural Resources and Environment to inquire whether trees that grow on the sides of the roads can be trimmed to allow the machinery they need to run their properties to be moved along country roads. However, they are not allowed to trim the trees. Sensible and practical rules must be applied to agriculture to enable us all to live together productively.

I recall Barry Steggall, the honourable member for Swan Hill in another place — I will talk more about him later — and the Honourable Rob Maclellan in the other place as Minister for Planning in the previous government, visiting the property of Domenic Cutri at Woorinen. Domenic is a world leader in the production of stone fruits and in particular their sale into the export markets. He has led the way by being innovative, progressive and prepared to take risks. However, frosts damage stone fruits, and one year when a particularly severe frost hit, Domenic suffered not only an enormous financial loss but also a loss in his capacity to supply the market. When you are in the export business, or in any business in which you build up a market that relies on the predictability of supply, a change in your supply and quality patterns can have a devastating effect.

At substantial expense Domenic decided to install wind machines to combat the frost. Those machines are surprisingly big — I suspect they would be about 8 metres high — and are driven by large V8 motors. Although they protect crops they make a bit of noise. That is another situation where sensible and practical rules need to be put in place as soon as possible. I will talk about that issue more a little later.

There are many more related issues, one of which involves the Lake Cullulleraine area near Mildura on the Sturt Highway. In the past absolutely nothing other than broadacre cropping and grazing was undertaken in that area. However, the wine industry is taking off and export markets are opening up. We now see hundreds of acres of vineyards around Lake Cullulleraine, which is obviously a balancing lake in the supply of irrigation water. I suspect the huge Deakin irrigation development, which is nearing the end of its consultative and recommendation process, may well start at Lake Cullulleraine and work back towards Mildura.

However, when wine grapes were planted in that area, both broadacre farmers and wine grape growers came to my office with a real problem. Their difficulty was that in the past the broadacre farmers had used chemicals to control their weeds without having to worry about wine grapes in the area. They needed to resolve that problem that had arisen, and they reached the point where they could not go any further. With some help from the Department of Natural Resources and Environment and me, they worked out a code of conduct for the area in a spirit of cooperation. The code of conduct involved consideration of wind conditions and the type and timing of the chemicals that could be used. Being a broadacre farmer I did not understand the viticulture side of it. However, it appears that there are times when chemicals can be used without hurting the vines in the budding processes. Mr McQuilten would know more about viticulture than I could ever learn.

The farmers and growers sorted the problem out cooperatively, and found a way forward. The broadacre farmers recognised the requirements of the viticulture growers not only because they are primary producers too and understood the need for sustainability, but also because they understood that that new development in the Lake Cullulleraine area would generate investment and employment opportunities for their families, which is most important.

I can recall, as most honourable members can, initial discussions about a right-to-farm bill. Some of us held the view at the time — including me — that the bill should include all aspects of the right to farm. A debate then ensued, and I believe the consensus was that such a bill may be a bit difficult to draft and that it would be better to work through the various departments, because the issue touched on the health, planning and sale of land acts and various other related acts. I understand the consensus across all lines of politics was that it would be difficult to achieve everything in one bill because it had to wash across a number of other acts.

I will give a brief history of the National Party's work in that regard. A lot of work has been done, and I commend the Honourable Philip Davis for recognising the contribution of my colleague Barry Steggall, the honourable member for Swan Hill in the other place, who did an enormous amount of work on the right-to-farm issue. It was in the area of the former Minister for Agriculture and Resources, and, as Mr Philip Davis said, events overtook the implementation process.

I also recognise the work done by the right-to-farm working group. When I read through the document that group prepared I thought, 'Well, there it is. It is not a bad membership to address such things'. The group includes representatives of the Department of Natural Resources and Environment and the Municipal Association of Victoria; two people from the Victorian Farmers Federation; a community representative from YV Fruits; and representatives from the Department of Infrastructure and the Department of State and Regional Development.

I recognise the good work those people have done. They met and made their decisions in the late months of 2000. There is no doubt that the group also drew on the information that had been produced previously. All round, the working group's report is a good start — in fact it is probably better than a good start — and goes a fair way towards addressing the right-to-farm issue.

I have looked at a copy of Barry Steggall's paper which, as Mr Philip Davis said, was prepared in 1998 and 1999. I have also looked at a copy of the right-to-farm working party report, and the government's response.

I will talk firstly about Barry Steggall's paper because it initiated many of the measures we are talking about today and many of the measures I hope will be in place shortly. I shall read a couple of paragraphs from the paper of our National Party colleague in another place, Mr Steggall. He states:

> Increasing reports of conflict between farmers and residents of the urban fringe suggest that in Australia, land use tension will continue to escalate, as it has in other highly urbanised countries.

As has been said, it has not been a problem in the past but it is starting to escalate. He continues:

> I believe that in Victoria we must take practical steps to minimise or eliminate these land use disputes. I recommend that a package of measures be adopted by the Victorian government, to support both traditional and innovative agricultural practice.

The first thing he looked at was the role of the new planning scheme under the state planning policy framework. Mr Steggall's comment is:

> The claim that the new state planning policy framework will be sufficient to protect both prime agricultural land and farming practice, needs first to be examined.

In fact, under the heading 'Agriculture' the state planning policy framework declares that its objective is:

> To ensure that the state's agricultural base is protected from the unplanned loss of high quality productive agricultural land due to permanent changes of land use —

which we talked about before —

> and to enable protection of productive farmland which is of high quality and strategic significance in the local or regional context.

It states further:

> Planning should support effective agricultural production and processing infrastructure …
>
> Planning should provide encouragement for sustainable agriculture and support and assist the development of innovative approaches to sustainable practices.
>
> The compatibility between the proposed or likely development and the existing uses of the surrounding land (must be considered in a proposal to subdivide or develop agricultural land).

In the inimitable words of Mr Steggall, he then goes on to say — I shall paraphrase it — 'All this is fine and supportive stuff, travelling in the right direction'. However, these words give no guidance, for example, to the Swan Hill Rural City Council about how it could resolve the Woorinen wind machine problem to stop the frost. It does not give any lead there. How does the council support and assist farmers who have developed innovative approaches in the face of valid complaints of nuisance under the Health Act? In fact, under that act, if a council fails to investigate a complaint of nuisance, the complainant can then go straight to the Magistrates Court, which may order the council to pay the costs incurred'. Mr Steggall goes on to say:

> These motherhood statements are good as far as they go, but they do not show local planners how the stated ends might be achieved.

We need these in relation to the new planning scheme, and that needs to be done as soon as possible.

Mr Steggall moves on to the next point about the Health Act. He strongly suggests that the nuisance provisions of that act be amended. Given that the first ports of call are usually the municipal health officers, those officers need some guidelines and support in how to handle that matter.

I refer the house to the policy of Marin county in California in the United States of America, with which no doubt my good friend Geoff Craige is familiar. It is a Californian county code that sets out mechanisms for the right to farm, and this would be relevant to our Health Act in Victoria. The code states:

> No agricultural activity, operation or facility, or appurtenances thereof, on agricultural land, conducted or maintained for agricultural purposes, and in a manner consistent with proper and accepted customs and standards … shall be or become a nuisance, pursuant to this code, if it was not a nuisance when it began.

Mr Steggall's proposed amendment protects conventional farm practices that predate the arrival of the complainant, as is often the case, though not new agricultural or horticultural technology that may have been regarded as a nuisance from the moment it was introduced. So new technology in horticulture and agriculture would need to be included and judged on an acceptable practices program or perhaps through a code of conduct. Steggall got to the — —

Hon. Bill Forwood — You mean Mr Steggall from the other place.

Hon. B. W. BISHOP — Mr Steggall, the honourable member for Swan Hill in the other place, should be recognised for the work he did on this paper and he will get due recognition through my contribution to this debate.

Mr Steggall looked at disclosure, which I believe is a very important issue in this process. I read very carefully what the right-to-farm working group recommended in its document. It definitely leans towards advice which is, of course, a notice or a process for someone who would be looking at purchasing land that may be near agricultural or horticultural production areas.

At the risk of Mr Craige giving me some more assistance, I shall go to the Marin county policy again, in this case on the disclosure process. In fact, both the Marin county in California and the Carroll county in Maryland are among many municipal councils in the USA that successfully use disclosure to protect

agricultural practice. In their areas a notice of disclosure is mailed for ratepayers' information by local government to all owners of real estate in the rural zone — so it is about zoning as well; it is acknowledged and signed by developers of land in the rural zone as a prerequisite to a permit being granted; it is furnished to buyers of land in the rural zone by real estate agents and signed as a condition of settlement; and it is filed by the relevant municipal council.

The disclosure notice — this is most important — reads:

> The County of Marin has established a policy to protect and encourage agricultural operations on agricultural land. If your real property is located near an agricultural operation on agricultural land, you may at some time be subject to inconvenience or discomfort arising from agricultural operations, including but not limited to, noise, odours, fumes, dust, the operation of machinery, the storage and disposal of manure, and the application of chemical fertilisers, soil amendments, herbicides and pesticides. If conducted in a manner consistent with proper and accepted standards, these inconveniences or discomforts are hereby deemed not to constitute a nuisance for purposes of the Marin county code.

The National Party believes that is a good idea. It is far stronger than the recommendations of the working group, but it is absolutely essential for the sustainability of agriculture and community living on a cooperative basis. We suspect there would need to be amendments also to the Planning Act and the Sale of Land Act to pick that up. The National Party takes a very strong stand on the disclosure parts of that, and it differs on this point from the recommendations of the working group, because it should be tougher.

It is interesting also to note that the Steggall paper promotes the setting up of what he calls a Victorian agricultural practices board. The name given to it by the government and the working group — I am pleased to see the government has accepted it — is rural disputes settlement centre. It does not matter what it is called, so long as it works. It seems to be a very good concept to have in place. It would solve disputes and complaints crisply and efficiently, with a very strong use of mediation, as is used in Western Australia, and would use the Western Australian model as an example of how mediation could be helpful.

Farmers might be lodging complaints against one another. Farmers might complain against non-farmers, non-farmers might complain against farmers, and farmers might complain against government agencies as well. But many of those difficulties — like the situation of the gentleman with his dairy cows on the road, which cost a lot of resources in terms of both money and stress — could have been avoided through mediation. I am pleased to note that in its recommendation the working group makes a strong point that the resources need to be available and that the people who will do the mediation need to be trained in mediating in rural issues. It is extremely important that that be done.

The issue that always arises is that of vexatious complaints. They can be absolutely devastating — we have all seen it — not only to farmers but also to communities and municipalities.

The National Party is pleased about the inclusion of a mediation process requiring the payment of a $100 fee up front prior to taking court action, which should help to reduce vexatious complaints. That was recommendation 3.

The honourable member for Swan Hill in the other place referred to the need for education and more awareness of the issues. Although many people are aware of the issue there is a need to close the gap in understanding, something I spoke about earlier. Members of the working party wondered why there was this lack of understanding. It is acknowledged that part of the problem is that a generation ago, or even a decade back, our city cousins had more contact with rural communities because members of their families — their father, mother or relatives — were involved in rural pursuits. Because of the need for farms to be more economic farm sizes have grown, resulting in fewer people being in that connecting link. Now more than 70 per cent of Victorians live in metropolitan Melbourne so the situation may be worse in the future.

I am not blaming anyone for this problem; it is a process of time and is caused by the need for agriculture to adjust to the demands of global economies. A future of farms exhibition held in 1998 provided some answers. The statistics provided by that exhibition were similar to the figures the Honourable Philip Davis referred to and were startling. Approximately 18 per cent of schoolchildren believed that city people did not need farmers. I do not know where they thought their food and apparel came from. Only 55 per cent believed that the food they ate came from farms. There is a long way to go in ensuring that the gap in knowledge and education between city people and their country cousins is improved to ensure they go forward cooperatively.

Victorian agriculture and the state generally will benefit from a more informed community and a more supportive general public, wherever they might live, that understands the issues, the difficulties and

pressures that apply to those involved in agricultural pursuits as they change to meet the needs of globalisation, a notion that many people resent and resist. Australia's small population means we must be part of the global village to ensure agricultural production will earn new dollars from export industries and our standard of living is maintained.

The National Party believes this is a significant issue. If it thought otherwise it would not have done the work it has. It acknowledges the right-to-farm working paper report and the government's initial acceptance of the recommendations as a starting point. It would like to see more done to address the issues as they arise — for example, the nuisance provisions in the Health Act should be amended, which is something I have spoken about today in reference to Marin county and municipal officers. The National Party wants stronger disclosure regulations, using the Marin county lead as a base. It may not work as well here but the basic philosophy is good.

There is a need for a code of practice — I understand one may be coming in for the broiler and poultry industries — which should be drawn up by farming communities and industry working cooperatively to ensure a sustainable and practical outcome. I do not believe you can say you must have world best practice if that happens to be a farmer in Scandinavia who has a farm that is not possible to replicate in Australia's environment. Perhaps we should look at acceptable farming practices. There is a need to be sensible and practical or we will be back where we were.

The National Party believes all these issues are important because its constituency is rural Victoria. Reasonable processes have occurred as the issues have been worked through. The working party report is the starting point, and follows closely the work done previously. I refer to the media release of 20 March of the National Party spokesperson on agriculture, the honourable member for Swan Hill in the other place, which comments on the government's response to right-to-farm action. It states:

> National Party shadow agriculture minister, Barry Steggall, said today he was pleased the state government was moving to recognise farmers' right to farm.
>
> …
>
> 'I would like to see a disclosure mechanism in which all purchasers of property in rural zones must sign a statement acknowledging that they may at times suffer inconvenience or discomfort from agricultural operations, but if they are conducted under proper standards, they do not constitute a nuisance.
>
> 'Unfortunately the government has not gone this far, but it has introduced some disclosure provisions, which I welcome.
>
> 'The recommendations the report has made, such as the establishment of a Rural Disputes Settlement Centre, are almost exactly what we have proposed in the past. We are pleased to see the government will establish the centre, along with an education program on the importance of agriculture'.
>
> Mr Steggall said he was also a little disappointed about recommendations regarding the review of nuisance complaints under the Health Act.
>
> 'I believe we should be inserting a clause into the nuisance provisions of the Health Act, which says that no agricultural activity, operation or facility, conducted properly, can be considered a nuisance'.

The National Party believes the government's response is moving in the right direction. Considerable thought and effort have been put into these issues, which need to be concluded quickly. The right-to-farm working party has worked through the Steggall paper, but again we say the government has not gone far enough.

To put it simply, the work has been done and the National Party's position is that we should get on with it and wrap up the process. I urge the government to take immediate action. There are no reasons why the recommendations cannot be put in place by the end of the year, including the issues raised in the past and during the debate today.

Hon. C. C. BROAD (Minister for Energy and Resources) — I reject the motion on behalf of the government. The longer the Honourable Philip Davis talked the more obvious it became how out of proportion the wording of the motion is compared with the government's action over a period of just 18 months in government, and also compared with the long history and the lack of resolution of the issues by the previous government over a period of some 7 years.

The contribution of the Honourable Barry Bishop to the motion underlines again how out of proportion its wording is. The government welcomes discussion on this important set of complex issues. The tenor of much of the debate to date has been the development of the role and challenges in seeking to balance the undeniable right of farmers to pursue their businesses and to address the concerns of their neighbours.

I may have missed it in the remarks of the Honourable Philip Davis, but I did not hear anything about the opposition guaranteeing that if it were in government it would introduce single right-to-farm legislation. It failed to do so during the seven years it was last in government.

Clearly there will be legislative changes as a result of the report, *Living Together in Victoria's Rural Areas*, which has been much referred to in this morning's

debate. That legislative change will more than fulfil the government's election policy commitments.

I restate at this point the government's clear commitment to country and regional Victoria and country and regional Victorians. The Bracks Labor government was elected on a platform of governing for all Victorians. That commitment extends to governing for all Victorians in rural and regional Victoria. That commitment was demonstrated again when the Treasurer, John Brumby, delivered the second budget of the Bracks government with a massive long-term investment in regional infrastructure, rural innovation and sustainable development.

I shall mention a number of the significant areas on which the government delivered in the budget. Some $50 million will go to create a statewide network of modern science innovation and education precincts. Over seven years $157 million has been allocated for the action plan for salinity and water — —

Hon. Philip Davis — On a point of order, Mr Acting President, I would not ordinarily raise a point of order when a minister is responding to a motion, but she is pre-empting the budget debate in this house. The budget papers have been introduced and will be debated on the next day of meeting. My motion has nothing to do with the issues the minister is raising which have nothing whatsoever to do with the motion.

Hon. C. C. BROAD — On the point of order, Mr Acting President, I am not surprised that the honourable member does not want to hear about the action the government is taking to support rural and regional Victoria. It is clearly setting the scene for a whole range of measures the government is taking to support farmers, in particular in country and regional Victoria, including the right to farm. The honourable member is a little anxious if he is so concerned about my opening remarks.

The ACTING PRESIDENT (Hon. C. A. Strong) — Order! There is no point of order. The minister is enlarging her remarks on the general issue. She is able to do so under the practices of the house. However, I suggest she limit herself to the broad ambit rather than debating the budget.

Hon. C. C. BROAD — As the honourable member pointed out, there will be an opportunity to discuss as well as debate the budget. The highlights to which I have referred demonstrate the government's commitment to country and regional Victoria across a wide front.

The $7 million Naturally Victorian capital program is delivering on the ground to farmers, as is the community capacity building program. In short, the measures the Bracks government is delivering for rural and regional Victorians now and building for tomorrow, which the Treasurer outlined, stand in stark relief to the stance of former Premier Jeff Kennett when he spoke about country Victorians being the toenails of the state.

I turn to the discussion about the government's election commitments. The Bracks Labor government made a commitment during the election campaign, which it is worth stating clearly, that:

> Victorian Labor recognises the need for legislative protection of farmers 'rights to farm'. For seven years the Kennett government has done nothing to address the issue.

Shortly after coming to government, to progress this policy commitment, the government through the responsible minister, the Honourable Keith Hamilton, convened a right-to-farm working group, the membership of which has been referred to. It is important to acknowledge the work that was done over a period of some five months by the members of the group, which included the Victorian Farmers Federation (VFF), the Municipal Association of Victoria (MAV) as well as departmental officers.

The government is willing to acknowledge that the working party drew on work previously undertaken in 1999 at the request of the former Minister for Agriculture and Resources. However, he did nothing with that work. Work was undertaken by the previous government and the working party drew on that work in preparing its report for the current Minister for Agriculture who presented it in December.

That report entitled *Living Together in Victoria's Rural Areas* was prepared by the right-to-farm working group. The report, for the honourable members who have not had the opportunity to read it, spent some time considering the experience with right-to-farm legislation of the other states and the United States of America. It is important to note that based on a careful consideration of the experience touched on during discussion this morning the working group recommended that legislative change was an important element of right-to-farm changes but it was by no means the exclusive solution. The executive summary of the report said a number of things, but importantly it said:

> There was no simple legislative 'fix' to these complex problems such as right-to-farm legislation, and a more broadly based approach is proposed.

After canvassing the issues widely and drawing on a great deal of experience brought by the members of the working party to the exercise, the report made six key recommendations, a number of which involved legislation. Those recommendations have been referred to and I will not outline them in full.

Briefly, the key recommendations were, firstly, that legislation be introduced to amend section 32 of the Sale of Land Act to require vendor statements to include a warning about possible amenity impacts of agricultural practices and processes on adjacent properties. I have had to deal with some such issues in relation to mining proposals. Secondly, it was recommended that a joint state and local government community education campaign be developed; thirdly, that a rural disputes settlement centre be established; fourthly, that issues arising from the movement of livestock on public roads be addressed through the adoption of local laws based closely on the model livestock law developed by the MAV; fifthly, that the state planning policy framework be reviewed; and, sixthly, that options discussed in the report or other opportunities to reduce the potential for nuisance complaints about farming activities that are not noxious or injurious to public health be taken up in the scheduled review of the Health Act.

As honourable members are aware, in March the Minister for Agriculture released that report along with the initial government response to it. In that response, following the acceptance of the recommendations the minister made it very clear that the government would act immediately and set out in quite some detail how it would be doing so. The minister said that the legislative changes will be dealt with in the normal process of those pieces of legislation being addressed. I will return to outline the latest developments in progressing those legislative changes.

It is important to note the responses to the report and to the minister's acceptance of its recommendations on releasing the report. The Victorian Farmers Federation statement in response to the report is headed 'VFF supports right to farm report' and states that it considers the report:

> … represents an important step in clarifying the rights and obligations of farmers.

Peter Walsh, the VFF president and member of the working party, said:

> … there are a number of important recommendations in the report.

He commented on those, and the media release states that he:

> … concluded by commending the Minister for Agriculture, Keith Hamilton, for the initiative.

He called on the minister to quickly implement the recommendations.

It is also worth noting the National Party response to the working paper report and the minister's response to it. The statement by the National Party spokesman on agriculture, Barry Steggall, is headed 'Nats support right to farm action'. That statement indicates that Mr Steggall said:

> … he was pleased the state government was moving to recognise farmers' right to farm.

He said also that at last the importance of agriculture to Victoria was acknowledged and that the National Party is:

> … fully supportive of this report, which will help enshrine the right of farmers to go about their legitimate farming practices without interference from adjoining landowners.

In conclusion, he stated:

> The important thing is that at last we have some recognition of the importance of agriculture to this state.

Those responses give the lie to the wording of the opposition's motion.

The Minister for Agriculture has indeed moved quickly to implement the recommendations. He has written to the Attorney-General about the Sale of Land Act, urging that the proposed changes be made. He has allocated funding for the education campaign, and the Department of Natural Resources and Environment will work with the MAV — and the VFF, of course — to ensure that the material is efficiently and effectively prepared and disseminated. The minister has allocated funding also to establish the disputes settlement centre of Victoria, to be managed by the Department of Justice.

The minister has written to the MAV, which has agreed to facilitate implementation by writing to all councils about the model livestock law to encourage its adoption. The minister has also written to all mayors to formally deliver the right-to-farm report to Victorian councils. The state planning policy framework will be addressed in a Department of Infrastructure review of the rural zones, which is expected to commence in July. The options to reduce the potential for nuisance complaints about farming activities that are not noxious

or injurious to public health will be addressed as part of the review of the Health Act.

In conclusion, far from failing to implement its election commitments, the government has chosen — on the advice of a working group of people who are, by anyone's definition, the key stakeholders — to amend existing pieces of legislation in fulfilment of its commitments. That working group of key stakeholders agreed that there is no single legislative fix to the complex problems and that a more broadly based approach was likely to be much more successful.

In the short time that the Bracks government has been in office it has already delivered more to country and regional Victorians in addressing the right-to-farm issues than the Kennett government managed to achieve in seven years. The government rejects the motion.

Hon. E. G. STONEY (Central Highlands) — Given the time, I will keep my remarks brief. I support the motion. I note that mention has been made by other speakers about the previous government's working group, which was ably chaired by the Honourable Philip Davis, and of the great contribution by the honourable member for Swan Hill in the other place, Barry Steggall.

Mention has also been made of the government's release of *Living Together in Victoria's Rural Areas* which, as has been acknowledged, made the right noises. The opposition is most concerned that there does not appear to have been any action following the release of that document, especially given the promises made. I also quote from the ALP policy prior to the 1999 election on the right to farm. I remind the Minister for Energy and Resources of the promise in that policy. I will quote it in a slightly different context. It states:

> Victorian Labor recognises the need for legislative protections of farmers' right to farm.

The policy states also that for seven years the Kennett government did nothing to address the issue — which is not true. I remind the minister that the previous government did the hard yards in preparing the framework of the issue being discussed today. The former government prepared the framework, which was eventually picked up in the current government's report. The government has the responsibility to introduce legislation as soon as possible, considering its promise and the fact that the hard yards were done by the previous government.

It is absolutely vital that the government introduce legislation to meet what are widely recognised as rapidly changing demographics in Victoria, as identified by Mr Philip Davis and Mr Bishop. Some areas within 2 to 3 hours drive of Melbourne, many of which are the most fertile parts of Victoria, are experiencing much pressure from development.

In the irrigation areas in the north and following along the river the same pressure is being felt by farmers, especially in the grape industry. This change is accelerated in areas within reach of Melbourne for commuters or people who travel to Melbourne on two or three days a week. These areas are feeling the pressure of development.

Planning pressure is being experienced in areas such as the Yarra Valley, the Mornington Peninsula, Gippsland, Woodend and Macedon. Areas in my electorate such as Yea, Alexandra and Mansfield are under mounting pressure from people who come to experience the country lifestyle. Most speakers have mentioned this point but I would like to dwell on the lifestyle issue because it is the basis of discussions on the need to bring in legislation for the right to farm. When people move out to these areas from Melbourne they are looking for several things: a rural aspect and rural views, a nice country town that has nice coffee — —

Hon. G. R. Craige — Coffee? Where do you get that from?

Hon. E. G. STONEY — It is pertinent, Mr Craige, because I am setting the scene for the type of people who are moving to these areas and what they are looking for. I believe that example shows their priorities are slightly different from those of the farmers who live in the areas people are moving into.

Hon. G. R. Craige — I am with you.

Hon. E. G. STONEY — I am glad you could be convinced so easily.

Honourable members interjecting.

Hon. E. G. STONEY — I will not be diverted by the interjections! People who move to rural areas are also looking for and demand good telecommunications services, because some work partly from home — they may travel to Melbourne or a closer regional centre on a couple of days a week and work from home the rest of the time — and others work entirely from home.

The other thing that people really like is to have a farmer for a neighbour, because they think they will not be built out. They love to see vines, cows, calves, ewes and lambs. They like to see hay bales in the paddocks because at sunset the big round bales look terrific.

However, what they really hate is everything that goes with those farming operations. They hate the spraying, the noise of calves being weaned and the squeal of little lambs being marked. They hate many of the things that farming operations are all about.

The use of machinery at night has been mentioned several times, and that issue is often a wake-up call to people when they move to a rural area. Many activities that farmers regard as normal are foreign to people who move in from the city. People claim the activities are a nuisance, and councils are obliged to act. In some cases police have attended disputes. Councils tend to uphold complaints from people who claim that operations are a nuisance. A farmer is under pressure from the people who have come in to buy the smaller blocks, so he says, 'My land is worth a lot of money — I will sell out and cut my land up', and the very thing people go to an area for is destroyed — and ironically, the genesis is in the complaint about the farming operation. The trend for people to move from Melbourne has been going on possibly for more than 20 years and the lifestyle issue has been accelerating.

However, there are many reasons why people are moving to rural areas. Before I came to this place I experienced farming first-hand, as did Mr Bishop.

Hon. W. R. Baxter — Did you pick grapes?

Hon. E. G. STONEY — No, but I am quite fit. I decided to grow a crop called buckwheat, a new crop that needed a cool valley to be grown in. I found a valley, leased the land and grew a crop of buckwheat. It was quite successful. About two weeks from harvest time every cockatoo in the north-east of Victoria, and I suspect from the Wimmera and Mallee, arrived in my buckwheat and I was a bit perplexed about what to do. I contacted my good friend Robert Ritchie at Delatite Vineyard and returned on a Monday with two gas guns in the back of my Toyota Landcruiser. I set them up and every cockatoo in the north-east went down the road to the other paddock of buckwheat. My buckwheat was cockatoo free, and the process worked beautifully. At 11 o'clock on the Friday night I received a phone call from a neighbour who had come up for the weekend. Because I had not experienced it before, I could not believe the angst and the lack of understanding from my city neighbours of my problems and of the fact that if I did not get rid of the cockatoos the crop would not be harvested. What is more, they did not care.

I thought of that incident recently when I read an article in the *Weekly Times* of 4 April, which reminded me of what happened. I was quite glad that the neighbours had not changed their address for voting purposes and that they still voted in Melbourne, because I do not believe they would have voted for me as a result of that incident. They were upset and they did not understand the problems of the farmer next door to them.

The article was referred to by Mr Bishop. It is headed 'Wine harvest jolt' and deals with Sunraysia grape growers having to harvest at night, and how the police came around after a complaint and stopped the grape harvesters from working. Clearly when an issue gets to that point there is an urgent need for legislation to protect legitimate farming activities. It is critical that farmers are protected so that they can carry out their normal farming operations.

Another farming activity that comes to mind is growing lucerne. In hot weather the second and third cuts of lucerne cannot be baled during the day. Because it is necessary to wait for the dew to hold the leaves on to the stalks often baling begins at 3 o'clock in the morning and goes through to 8 or 9 to get the best cuts. It is a process that cannot be put off and for many years — since the introduction of balers — lucerne has been baled at night.

The Victorian Farmers Federation has been a keen advocate of the right-to-farm issue. Its policy statement on the right to farm states:

> Many of the new residents in country areas have an idealised view of agriculture. While they appreciate the attractive landscape farms generate, they do not understand that farm animals smell, that dust and noise are an integral part of farming and farms often work around the clock.

Ben Mitchell picked up that point, especially with reference to the smell. An article in the *Age* of 24 January 1999 headed 'Fight for right to farm and be smelly' states:

> A growing number of complaints about smelly and noisy farms from city people who have bought weekenders in the country has forced the Victorian Farmers Federation to seek special right-to-farm legislation.

The article quotes Peter Walsh as saying:

> Farmers need protection from unjustified complaints.

The house has heard of the incident involving a dairy farmer in western Victoria that was a wake-up call which shocked many professional farmers into realising the right to farm is a big issue. That incident more than any other motivated the farming community to look at the issue.

In conclusion I turn to what is happening overseas. In his newsletter Toby Barrett, the member of parliament

for Norfolk in the Ontario Legislative Assembly, identifies the problems and states:

> With the increase in non-farming rural residents, legislation to protect normal farm practices is critical. Farmers must feel free to continue normal farm practices without threat of court action.

He refers to the odours, dust and noise and the need for protection. As Mr Davis said, most states in America have some form of legislation, and Michigan is no exception. Most of the right-to-farm statutes in America are set up to be a defence to a nuisance lawsuit.

I make the important point that currently in Victoria farmers do not have a defence and are vulnerable to charges of being a nuisance or of undertaking offensive operations. In the United States once a nuisance has been established by the complaining party the agricultural operation raises the defence proved by the right-to-farm status.

Another pertinent point that shows the credibility of farmers and what is being promoted is that most right-to-farm statutes do not protect agricultural operations being operated in a neglectful or illegal manner. So farmers do not have carte blanche to make a lot of noise, be offensive and cause nuisance to their neighbours. Only legitimate farming operations have the protection of such legislation.

Around the world farmers are being protected. Here in Victoria the government is slow to act. In her contribution the minister said the motion is out of proportion. I make the point that it was her government that made the promise; the opposition is only holding the government to its promise.

I urge the government to get off its hands and as quickly as possible bring in legislation to protect Victorian farmers.

Hon. W. R. BAXTER (North Eastern) — At the outset I must say that I have some sympathy with the minister's contention that the wording of the motion is a bit extreme. It could be fairly contended that it is to a degree unreasonable, but the issue is too important for honourable members to engage in a slanging match over what the wording of the motion should be, who did something and who did not do something else.

The important point to note is that all sides of the house have agreed that this is a very important issue and that some legislative backing needs to be given to farmers and as soon as possible. I welcome the acknowledgment from the minister that legislation will flow out of the report of the working party. I hope that legislation will come through before the year is out, in the spring sessional period, and that it will go further than covering the working party recommendation to taking up the two or three issues the Honourable Barry Bishop referred to as desirable aspects of legislative support for farmers' rights to carry out their normal day-to-day activities.

Some people might ask, 'Why has this become an issue now, when 20 or 30 years ago it was not heard of?'. That has been alluded to by a number of speakers, who have pointed out that farming practices have changed to such a degree that perceived nuisances now simply did not exist years ago, when many of the farming activities were done manually or with horses. They were small farms, whereas now there are very large farms with large and at times noisy machinery. Some of the crops now grown need to be harvested at night — examples have been given by Mr Stoney of lucerne and by Mr Bishop of grapes — because there is no option. The product cannot be harvested during the day because the quality would be lost. That is why this has become an issue. Put simply, farming practices have changed to such an extent, with the introduction of crops that require different techniques, that some disruption has been caused to communities.

Much mention has been made of rural lifestyles and city people moving out to the country. Yes, I have had my problems, too, with a few weekenders coming up to the country who fail to understand the mechanics of farming and what is necessary to be done. On the other hand, I also welcome city people moving to the country. Not only do we need them population wise, but we need their money and their investment. They create jobs, they buy things locally, and they underpin our economies. If they are permanent residents rather than just weekenders they send their kids to our small schools and keep the enrolments above the minimum so they can continue to operate. So I do not want to sound as though I am discouraging people from moving to the country simply because they are not farmers, because they can underpin the rural economy to quite a degree. The big problem confronting us, as has been alluded to by previous speakers, is that those people must be educated about the practicalities of farming.

Mr Bishop also pointed out that 30 or 40 years ago most city people had direct relatives on and visited farms — they understood farming, and it was not an issue. Now, as has been shown by the surveys quoted by Mr Davis and others, large numbers of city people, particularly younger people, seem to have an abysmal lack of understanding of the practicalities of farming, or even their connection with farming and how reliant they are on agriculture for their wellbeing. I find that extraordinary. One wonders what is wrong with our

education system if it is not being demonstrated to young people how important agriculture is to their wellbeing. But if one looks at yesterday's budget one can understand it; agriculture scarcely got a mention in the Treasurer's speech. Clearly city people do not acknowledge as much as they ought to the importance of agriculture to this state and to everyone's everyday life.

Those of us who promote right-to-farm legislation do not suggest that farmers have some God-given right to do what they like. I do not think anyone has suggested that. But there are already plenty of legislative barriers to and regulations for what farmers can and cannot do — for example, with native vegetation. These days you cannot just go and cut down a whole heap of trees; you need a permit — quite correctly. You also cannot engage in widespread laser planing without getting a planning permit, because you may well be changing the lay of the land and sending drainage water in a direction it would never have gone in under natural conditions, and that has been accepted by most farmers as a reasonable imposition — although I did have one on the phone to me over the weekend who had never heard of it and who thought it was highly objectionable, but I think I convinced him of the merits after a while.

As another example, there are regulations for the disposal of dairy effluent. Many of my constituents became anxious when the Environment Protection Authority started to wield the big stick over the disposal of dairy effluent. I think the EPA went over the top in the beginning, but most farmers would acknowledge that it has a responsibility to ensure that dairy effluent and other discharges are treated and disposed of in a more careful manner than might have been the case 50 years ago, when it was just allowed to run down drains and eventually perhaps into watercourses.

My first real experience with complaints about the right to farm was about 20 years ago with the hail guns in the apple-growing orchards around Stanley near Beechworth. I thought the complainant was totally unreasonable, because the incidence of hail is so infrequent that the guns did not operate very often. There are all sorts of debates about their effectiveness or otherwise in preventing the formation of hail, but it seemed to me that because they were used so little it was a reasonable imposition on the neighbours for their peace of mind to occasionally be disturbed by some loud bangs. So far as I could see, the guns were not doing anyone any physical harm, but they became a big issue in the district.

I suppose that decision to support the right of growers to use hail guns lost me a vote or two, as did Mr Stoney's decision concerning his buckwheat.

An example referred to by Mr Bishop that has become a current issue is the objection to the use in orchards of wind machines for frost control. It is true we now have the capacity to operate those large machines, which are driven by high horsepower motors and make a bit of noise. They are not used every day because we do not get frost threats every day. What is the alternative? The previous method used to alleviate the effects of frost was to burn oil pots, which caused much pollution and was smelly. Despite the noise, wind machines are a distinct improvement environmentally on earlier practices. It is again a matter of getting some balance into what we do.

A case could well be made out for some cooperation between farmers and their non-farming neighbours. No-one wants both sides getting into their respective corners where never the twain shall meet. Some people are vexatious and on occasions become obsessive and totally unreasonable about a motor running. My experience has been, and this is where I think the working party's report on a disputes resolution committee will go a long way, that if you can get the two sides together and have a bit of a talk about it, often some action can be taken to alleviate the problem — for example, the fitting of noise baffles on irrigation pump motors. Perhaps 20 years ago when a pump was installed no-one lived within miles of it and there was not much baffling on the exhaust because it was not necessary. However, spending a couple of hundred dollars on it might well reduce the decibel level to a much more acceptable level and overcome the difficulties.

I am sure there are plenty of examples where some action can be taken to alleviate problems. It is not a matter of saying, 'I do not want you working your paddock today because the wind is blowing in my direction and there will be too much dust'. Sometimes things have to be done — for example, lucerne has to be baled when it is ready, and the grapes have to be picked at the right time because if they are not picked today the supermarket does not want them tomorrow as they will be past their best. I acknowledge there is limited scope for modification in some instances, but in those cases where it can be achieved, let's go for it.

There has been a bit of talk today about stock movement on roads. I am the greatest defender of people's rights to travel stock down a public highway or road. Over the years I have had many discussions and a number of arguments about it. After municipal

restructuring the Shire of Moira hired an environmental manager from Melbourne. His view was that no farmer had the right to take stock on the road because allegedly it damaged native vegetation, and that was the end of the penny section. Fortunately that fellow did not last long on the payroll and a more reasonable situation now applies in the shire.

Hon. D. G. Hadden — He was redeployed.

Hon. W. R. BAXTER — He was certainly redeployed. He should never have been employed by that municipality in the first place.

In recent times I have noticed with some degree of satisfaction that signs have gone up on the Murray Valley Highway in my electorate advising motorists that they must comply with the law and give way to stock travelling on the road. In more recent years there have been difficulties where some motorists think they are kings of the roads and no farmer has the right to travel stock along roads. I am glad those signs have gone up.

I am also prepared to acknowledge that there might need to be a qualification on travelling stock along roads, particularly as dairy herds get larger and are being moved along a section of road twice a day, every day. I am not sure that is reasonable. That is the reason why as Minister for Roads and Ports I introduced the subsidy for underpasses — so stock could get across roads. It was not only a safety issue — to prevent people running into stock — but also saved cows making a mess on the pavement.

I do not object to cows crossing the road. However, I can understand neighbours getting a bit upset because someone who is taking their herd of cows 200 metres, 300 metres or a kilometre down the road every day is damaging the road seal and ratepayers are having to pay for the damage to be repaired. More particularly the mess the herd leaves on the road gets onto people's motor vehicles and is corrosive. I can understand neighbours getting a bit upset if they find the road soiled in that way every day. In such circumstances farmers may need to change their method of operation. However, by and large the right to travel stock along roads should be an as-of-right activity.

There is another aspect of the right-to-farm legislation that might be seen to be tangential and as a hobbyhorse of mine — that is, the issue of genetically modified organisms (GMOs). I am alarmed that a number of municipalities — I have one in my own electorate — are attempting to prevent farmers from utilising genetically modified seed. I fail to see why a shire council, made up of genuine and committed people but who are largely unskilled and ill informed on GMOs, should decide to ban them from their municipality and thus render all the farmers in that municipality potentially uncompetitive à la their neighbours in other municipalities. I do not know what right the municipality has to impose that sort of ban and it may well be something that needs to be looked at in right-to-farm legislation.

I acknowledge the jury is still out on GMOs. A number of people have serious concerns about it. It is my view it is the way of the future. I want decisions based on science, not on emotion. I am therefore concerned that some councils are seeking to impose their will on farmers without a reasonable scientific basis. If a municipality bans GMOs in its area investment will be made in another municipality where people can make their own decisions and get the best return on their investment. It is one of the issues that will have to be looked at in right-to-farm legislation. The National Party can be well pleased that the issue is up in lights now.

Honourable members can be thankful that this Labor government, which perhaps traditionally has had a lack of understanding of country and farming issues, has taken the working party forward from the good work undertaken by the honourable member for Swan Hill in another place during the term of the last government. I am pleased with the commitment I think the house got from Minister Broad today that legislation will emerge out of the working party's report. I make the plea that we get that legislation before the year is out.

Hon. D. G. HADDEN (Ballarat) — I oppose the motion on behalf of the government. The right to farm has been debated this morning and various members referred to instances in their electorates.

I could cite many such instances in my electorate of Ballarat Province. One example is the grain trains that travel from Mildura through to Ballarat. Sometimes 8, 10 or 12 trains a day and 6 trains a night go through my town of Creswick.

Hon. G. R. Craige — A fantastic noise!

Hon. D. G. HADDEN — It is a fantastic noise, but it can also be very disturbing for some residents of the town. That is just one example of how noise can affect people. I also hear the bird guns where I live.

Another problem I have in my small acreage out of the township is dogs roaming from the suburban area of the township. Their owners like to let them out for a run at night, and they can be heard travelling along the

outskirts of the town and heading towards where the sheep are. That is a great invasion of one's lifestyle. I notice that issue was not mentioned as a specific grievance for farming lifestyles.

The right-to-farm working group was established last year by the Minister for Agriculture, the Honourable Keith Hamilton, in response to Labor's commitment during the 1999 state election to recognise the need for legislative protection of farmers' right to farm, given that the former Kennett coalition had done nothing to address that issue during its seven years of government.

Labor came to government and the Minister for Agriculture established a right-to-farm working group. It was a bipartisan working group that met between July and November of last year and considered the issue of the right to farm, and tabled a comprehensive and educative report in December. The minister is acting on the recommendations contained in that report.

As I said, the right-to-farm working group was bipartisan and included representatives of the Department of Natural Resources and Environment, the Municipal Association of Victoria and the Victorian Farmers Federation, a community representative from YV Fruits, and representatives of the Department of Infrastructure and the Department of State and Regional Development. The working group also met with the Department of Human Services and the Department of Justice. It should be acknowledged that the working party drew on work that had been commenced by the previous government under the former Minister for Agriculture, Mr Pat McNamara.

As I said, the right-to-farm working group report entitled *Living Together in Victoria's Rural Areas* was presented to the minister last December. That report said that while legislative change was an important element of right-to-farm changes, it was not the exclusive solution.

It is interesting to note from the report that the working group looked at right-to-farm legislation in Tasmania, Western Australia and the United States of America. The West Australian legislation established the Agricultural Practices Disputes Board five years ago to resolve issues between farmers and their neighbours. That board appoints mediators to hear complaints, and decisions of the board may be appealed against to the courts. The working party noted that that West Australian board receives only about 80 inquiries a year and conducts about six mediations a year. The working group believed the low number of mediations was due to the scope of the board's responsibilities and its procedures.

Most of the United States right-to-farm legislation was passed between 1978 and 1984 and closely followed a North Carolina statute which included the concept of first in time, first in right. The United States legislation has become less relevant as agricultural practices have evolved over the decades.

The working group found that the US legislation has limitations because of changes in the scale and techniques of farming practices over time. It also found that the legislation did not evolve and that it was static and inflexible and did not move with the changes in agricultural practices.

The working group found that the benefit to agriculture of the right-to-farm laws in the United States had been limited to providing for a clear legislative statement that each state values the role of agriculture — a message that legitimises farming at a community level. However, the working group found that the US laws had the difficulty of applying a single rather inflexible legislative solution to safeguard rapidly changing agricultural practices, as I have said. It was therefore necessary to introduce other measures to address issues of conflict between farmers and their neighbours.

Those measures were contained in table 1 of the working group's report, which set out four measures which the United States used to complement its right-to-farm legislation. Those measures were: urban growth boundaries; exclusionary zoning; state purchase or transfer of development rights; and the issue of disclaimer notices on the sale or transfer of land.

Another aspect of the working group report was its recommendation that the government introduce legislation to amend section 32 of the Sale of Land Act to require vendor statements to include a warning about possible amenity impacts of agricultural practices and processes on adjacent properties. That recommendation has been acted on by the Minister for Agriculture, who has written to the Attorney-General regarding the Sale of Land Act of 1962, and I am pleased to confirm that the required legislative changes to section 32 of the Sale of Land Act are to be considered in a review of that act later this year.

Another recommendation of the working group was for community education campaigns to be conducted by the state government in conjunction with local government. That recommendation has been taken on board and acted upon by the government. The Department of Natural Resources and Environment will develop the program in conjunction with other stakeholders, including the Victorian Farmers Federation and the Municipal Association of Victoria.

A further recommendation of the working group was the establishment of a rural disputes settlement centre as part of the Dispute Settlement Centre of Victoria system to be administered by the Department of Justice. In my view that is a very important recommendation. The working group's report confirmed its strong support for the use of mediation services to resolve disputes between farmers and neighbours about agricultural practices.

As most honourable members will know, mediation is voluntary. It requires the agreement and cooperation of parties who attend the mediation process. It is a formal and cooperative forum. Mediation provides a relatively quick outcome and is relatively inexpensive compared with formal litigation through the courts. The working group consulted the Dispute Settlement Centre of Victoria and found that service offered a valuable facility to assist in the settlement of farmer–neighbour disputes. The working party report states:

> The working party believes the credibility of an RDSC —

that is, rural disputes settlement centre —

> in the eyes of the farming community will be critical to its success. For this reason merit was seen in involving both the Municipal Association of Victoria and the Victorian Farmers Federation in advising on the operation and promotion of the suggested RDSC, especially on the training and selection of mediators.

An aspect of that recommendation was that additional mediators be trained who are particularly skilled in and familiar with farming practices and that a committee be established to advise on the operation and promotion of the rural disputes settlement centre to the community, especially on the training and selection of mediators.

As I said, the government has picked up that recommendation; it will establish a rural disputes settlement centre, which will be managed by the Department of Justice under the Dispute Settlement Centre of Victoria. The mediators will be required to mediate on right-to-farm disputes.

Another key recommendation is that issues arising from the movement of livestock on public roads be addressed through the adoption of local laws based closely on the model livestock law developed by the Municipal Association of Victoria.

In releasing the very important report entitled *Living Together in Victoria's Rural Areas* on 19 March this year, the Minister for Agriculture made a number of pertinent media statements. He announced the release of the right-to-farm report and said that the main finding was how many and varied were the potential causes of disputes. He summarised those as disputes that occur in our farming community and also noted that none of these types of disputes can have a single solution. The working group therefore put forward a number of solutions and, as I said, made six key recommendations, to which the government has responded very promptly.

It is also to be noted that the Victorian Farmers Federation released a media statement on 19 March this year which reads:

> The Victorian Farmers Federation believes the report of the right-to-farm working group represents an important step in clarifying the rights and obligations of farmers.
>
> VFF president, Peter Walsh, said there are a number of important recommendations in the report …
>
> 'The VFF strongly supports the development of a rural disputes settlement centre,' Mr Walsh said.
>
> 'The movement of livestock on roads is a source of many complaints against farmers. The report recommends all councils adopt the Municipal Association of Victoria's model local law for the movement of stock on roads'.

He goes on to say:

> The VFF supports and commends the minister on this initiative.

That is, the initiative which the Minister for Agriculture indicated he would take of writing to all councils requesting that they adopt the model law.

In conclusion, the VFF president, Mr Walsh, commended the Minister for Agriculture on his initiative.

Another support for the right-to-farm working group's report came from the National Party's agriculture spokesman, Barry Steggall, in another place. In a media release on 20 March, he announced he was pleased the state government was moving to recognise farmers' right to farm and said that the right-to-farm report, which had been presented to the Bracks government, was a big step forward for farmers in this state. He said:

> We are fully supportive of this report, which will help enshrine the right of farmers to go about their legitimate farming practices without interference from adjoining landowners.

He also said:

> The important thing is that at last we have some recognition of the importance of agriculture to this state.

I might add that Mr Steggall was a member of the former coalition government that established the review committee in April 1999. That report did not proceed

very far and was unable to be implemented, but the current working group did refer to it.

As I have said, the Minister for Agriculture and the Bracks government have accepted the working group's detailed report and are acting on its six key recommendations. This government is very committed to working for the whole of Victoria — rural, regional and city. Certainly there needs to be an attitude and approach to addressing the complex and difficult emotional and financial problems that arise when conflicts occur between farmers and those who have been described this morning as hobby farmers. I know that in my area they are called blockies. Regardless of that, they are people who have rights, but landowners also have responsibilities.

We need to ensure people are able to live together in country rural communities and are very cognisant of all the issues involved in agricultural practices. Certainly the mediation recommendation, as well as the proposed amendments to section 32 of the Sale of Land Act, are crucial recommendations in the report.

I conclude by saying the government has acted on its pre-election commitment and will continue to do so for all Victorians.

Hon. R. H. BOWDEN (South Eastern) — The underlying justification for supporting the motion today lies in the fact that the government made a promise and so far during its lifetime has not delivered. It was a very clear promise and it was unequivocal. It was also made to an extremely important section of the Victorian community. There was a need for enhanced certainty, given the pressures that honourable members have spoken about today — the differences in attitude and conflicts that can arise. There is now an even greater need for enhanced certainty and some predictability in what some members who have spoken today would consider to be the right to farm.

To demonstrate the importance of agriculture I have obtained the latest Australian Bureau of Statistics (ABS) figures dated 31 March 1999 on farming activities. As at that date Victoria had 36 322 diverse and distinct agricultural enterprises. The cause of concern is that in many instances the conflicts that honourable members have spoken of relate to the natural pressure of population growth and the limited land availability given the specific requirements of certain farming activities, crops and other agricultural pursuits.

Despite its importance to Australia, Victoria has only 3 per cent of the total land mass of the continent. Because of that restriction and other climatic and geographic conditions the availability of suitable farming land is limited and becoming increasingly valuable. To give some idea of the importance and the contribution of agriculture in Australia — missing in the government's consideration of the issues by its failure to legislate and make good its promise — according to the ABS figures as at 31 March 1999 agriculture is the most extensive form of land use. The estimated total area of agricultural establishments in Australia was 453.7 million hectares, about 59 per cent of the total land area of the country. To again demonstrate the importance of agricultural use in Victoria the same ABS statistics show that Victoria has 12.8 million hectares of agricultural land under government registration.

The contribution of farming and agriculture has been extremely important in the past and will continue to be extremely important in the future. The South Eastern Province that I represent has many diverse activities ranging from vegetable growing, grape production, the broiling industry, egg production, dairy and beef production and I include marine activities, because for the purposes of the debate fishermen and lobster and abalone producers are farming in the sense of primary production. Land use influences often limit the availability of land because many different elements come together — the cost of land, the weather, the technology, the economics, proximity to markets, economic returns and population trends. To demonstrate again the importance of employment to the economy, more than 80 000 employees are registered on ABS statistics in this state alone as deriving their livelihood from agricultural farming production and the associated agricultural pursuits.

After listening to the contributions of honourable members it appears there is a parallel with airports and the noise of aircraft. People living near airports complain about the noise of aircraft but in most cases the airport was there before residential developments and there is a lifestyle conflict because people complain about the location of the airport and the noise of aircraft even though they were there many years before houses were developed around those sites.

It is important to bring forward the right-to-farm legislation so that there is a greater understanding and ability for the community to share in the benefits of appropriate farming. At times there have been too many decision-makers and too many people getting involved, often to the detriment and uncertainty of farming communities.

I compliment the Honourable Graeme Stoney for the important point he made that legislation in the United States of America protects farming communities from unnecessary lawsuits when conflicts occur. This prevents the diversion of financial resources from farming and useful activities. Farming is often impacted by population increases. Page 24 of *Growing the Whole State*, the budget document delivered yesterday in the other place, has the statement:

> Between 1999 and 2021, the population of the south-east Melbourne region is projected to increase by 214 786 persons, representing an average annual growth rate of 0.5 per cent. This is slightly lower than the projected average annual growth rate for Victoria of 0.6 per cent, mainly because of the relative scarcity of land for development in this part of Melbourne.

It reinforces the comments of other honourable members about the conflicts that arise through the scarcity of suitable land.

The difficulties in the South Eastern Province are not so different from those mentioned earlier. It has the conflict of farming versus housing and the environment. It has industries such as vegetables, grapes, dairy, beef, flowers, broilers, eggs, forestry and marine activities. Concurrent with those distinct and specialised activities we have an emerging raft of controls from such organisations as the Environment Protection Authority, local councils, Workcover, rules applied by the Victorian Civil and Administrative Tribunal and government departments, infrastructure guidelines, water policy and so on.

These lifestyle pressures are often unfairly impacting on the ability of farming communities to get on with the job, earn their living and be productive. Often councils demonstrate hostility to issuing permits, even when the applicant complies with the planning scheme, forcing the applicants to appeal to VCAT. In one instance a council in my electorate appealed a decision of VCAT to the Supreme Court because it did not like a certain farming activity. The fact that, fortunately, the Supreme Court threw out the case demonstrates the council's stupidity.

In conclusion, my constituents are concerned at the government's inaction in not fulfilling its promise to introduce right-to-farm legislation. There is a need for legislation to ensure, among other things, the protection of special regions such as the Yarra Valley and the Mornington Peninsula. The government promised legislation; it promised the right to farm; and there is a need for it. The encroachment of environmentalism, often unreasonably, and the attitude of councils, in some cases trying to be governments in their own right, often to the detriment of industry, investment and their ratepayers, is of great concern. The issue is too important. The government should honour its promises in view of the importance of the right to farm and of agriculture, as well as other issues mentioned today. It is long overdue. With those few words it is with pleasure that I support the motion.

Hon. G. R. CRAIGE (Central Highlands) — In supporting the motion I place on record that while much has been said about the support of the Victorian Farmers Federation for the working party recommendations, the VFF clearly supports the introduction of right-to-farm legislation. We should not discount the fact that it is happy so far with the process that is occurring, because it still believes the best way to handle the issue is by introducing legislation.

I should like to talk about it from another perspective — the urban sprawl and the conflict that occurs in important areas, such as the Yarra Valley and the Dandenong Ranges. As most people know, significant horticulture has taken place in the Dandenongs and many orchards have existed there for years. The Honourable Graeme Stoney referred to people moving into country areas and the outer fringes of Melbourne creating lifestyles that make it virtually impossible to carry out farming practices.

Many horticultural practices and produce have moved from the Dandenongs. It was a significant cherry growing area, but that industry has now moved to north-eastern Victoria and is flourishing, albeit at a real cost to the consumer at the end of the day because of transport costs and so on. Although the cost of production may be lower in other areas, when costs of fertilisers, labour and fuel are taken into account such relocations increase the cost to the consumer.

We all like our fresh strawberries, and the strawberry industry is under extreme pressure in the Yarra Valley and the Dandenong Ranges. Large quantities of flowers are sold on Mother's Day and similar occasions and flower growers are under pressure to relocate because of the conflict caused by their horticultural practices. In particular, flowers have to be picked at certain times. The Honourable Graeme Stoney spoke about lucerne being cut in the early morning, and flowers are no different.

I recently spoke to an asparagus farmer who exports asparagus to Japan. When I asked how he gets his product into the marketplace, he said, 'I tell you what, we sit up and watch it grow during the night and when it is the right time we have to pick it, pack it, load it into the truck and get it to the airport. You can't determine that time when we carry out that work'. Many of these

issues are placing pressure on operators in these areas and clearly there needs to be some framework put in place to ensure that these people can carry on their enterprises.

I place on record the efforts of the Shire of Yarra Ranges in working with the wine growers and wineries in the Yarra Valley and putting in place many codes that minimise conflict. The Yarra Valley is without doubt the most significant wine growing area in Victoria, as well as a magnificent tourist area close to Melbourne.

I am reminded that when you drive out through Lilydale on the Maroondah Highway, through Coldstream and on to Healesville, you see many vegetables being grown, and often on crisp mornings there are 30 or 40 pickers in the paddocks picking brussel sprouts or a similar crop. For honourable members who do not know, brussel sprouts have an odour not only when they are cooked but also when they are picked, and you can pick up the odour as you drive through Coldstream. I stopped my car when I was driving in that area, sniffed the air and said to myself, 'Well, that smell is really money, it is making money and no doubt it is important to the area'.

In conclusion, it is important for the government to ensure that in the next sitting of Parliament it introduces appropriate right-to-farm legislation.

Hon. PHILIP DAVIS (Gippsland) — I thank all honourable members for their important contributions to the debate. The Honourable Bill Baxter put the debate into context by saying that it is too important to squabble over the wording of the resolution. I am inclined to agree. The minister admitted in her response that the ALP had a policy commitment going into the election some 18 months ago that it would deal with the right-to-farm issue by way of legislative response. It has failed to do so. It set up a committee of inquiry that made recommendations, but the minister has admitted that no immediate action is being taken on a legislative response. It is proposed, by the minister's own admission, that the Sale of Land Act will be reviewed commencing in July, but there is no commitment to undertake this legislative reform recommended by the review committee.

The minister alluded to the fact that there would be a subsequent review of the Health Act at some future time, whenever that may be. In other words, the government has failed in its first 18 months in office to deliver on its election promise to introduce legislation on the right-to-farm, and has failed to commit to the legislative reform recommendation by its own working group.

The minister asserted that there had been a lack of action by the Kennett government. She obviously had not listened to the debate, because evidence was led by members of the National and Liberal parties in their contributions about the action taken. The Honourable Barry Bishop made some play of the efforts of the honourable member for Swan Hill in the other place. It is evident that honourable members are aware now that there was a review committee process running through the course of 1999. The report of the committee was to be handed to the minister in September of that year but the process was overrun by the election.

Clearly there will be a good deal of action on this issue. It is beholden on the government to commit itself to honouring the election promise on which it has thus far failed to deliver.

House divided on motion:

Ayes, 27

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

Noes, 14

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

Motion agreed to.

Sitting suspended 1.08 p.m. until 2.12 p.m.

QUESTIONS WITHOUT NOTICE

Retail tenancies: review

Hon. W. I. SMITH (Silvan) — The *Australian Financial Review* believes the Minister for Small Business may give shopping centre tenants automatic right of renewal when their leases expire. Is it not a fact

that the real danger for Victoria is that potential property investors will direct their investments interstate?

Hon. M. R. THOMSON (Minister for Small Business) — I guess it goes to show you cannot believe everything you read in the press! The review of retail tenancies that is being undertaken has not concluded, with a final paper going out for discussion. One of the terms of reference is to look at reasonable security of tenure and what that might mean. That has not been determined at this stage. I am waiting to hear what has come out of the consultations to date on retail tenancies.

The consultations have been wide and have been held right across Victoria. They have involved retail tenants and landlords to provide a balanced piece of legislation that ensures we have in place legislation in which both tenants and landlords can be confident. I await with eagerness the response from those consultations which will also go out for further discussion when we have draft legislation. The *Australian Financial Review* is far ahead of any recommendations I am yet to receive.

Hon. K. M. Smith — On a point of order, Mr President, I do not think the minister has answered the question. The difficulty is that she has not blamed the federal government yet, so she could not possibly have answered the question!

Ports: rail gauge standardisation

Hon. G. D. ROMANES (Melbourne) — Will the Minister for Ports advise the house how the budget commitment to a program of rail gauge standardisation will aid the development of trade through Victoria's ports?

Hon. C. C. BROAD (Minister for Ports) — The commitment by the Bracks government of $96 million towards the staged delivery of conversion of broad-gauge rail infrastructure to standard gauge over the next five years will significantly aid the development of trade through Victoria's regional ports. The commitment shows that the Bracks government has a vision for the future and is delivering now for that future.

The project has significant regional, state and national benefits and will provide a major boost to rail competitiveness and efficiency, which is a major objective of the Bracks government. It complements the government's decision to encourage greater competition and to lower freight costs by declaring open access on the intrastate rail freight network from 1 July.

The government believes this important budget initiative particularly benefits the regional ports of Geelong and Portland. I note in particular that today's Warrnambool *Standard* starts with a story in which it is stated:

> Portland emerged with a winner's grin after yesterday's state budget announcement that $96 million would be spent on standardising the state's rail line.

That is rather more than the previous government managed to do. Importantly, the conversion of the north-western corridor to standard gauge by December 2002 will also facilitate the movement of mineral sands to the port of Portland. The timing of this investment complements the plans of resource developers who own deposits in the Murray Basin.

The commitment of $96 million is a contribution towards the total cost of the Bracks government's preferred $140 million standardisation program. The Victorian government will be seeking $44 million from the commonwealth government and the private sector to contribute to the standardisation program, in recognition that it provides regional and national benefits. Should the commonwealth choose to meet its obligations that will enable the standardisation program to be completed in a timely fashion.

Unlike the previous government, which focused on the sale and privatisation of public assets, including our regional ports, the Bracks government is concentrating on building infrastructure that supports our ports and on tangible outcomes that will grow the whole of the state.

Retail tenancies: review

Hon. C. A. FURLETTI (Templestowe) — Following the question asked by the Honourable Wendy Smith, will the Minister for Small Business unequivocally reject any prospect of automatic renewal of retail tenancy leases for all retail premises, many of which are owned by self-funded retirees?

Hon. M. R. THOMSON (Minister for Small Business) — As I said, there has been prior consultation on retail tenancies. There is a great need to overhaul the act to clarify some very complex issues in it and make it clear for those who have to work under it. We are awaiting and looking forward to what the consultative program will bring by way of recommendations. The discussions have been very constructive. I said one of the terms of reference is to look at reasonable security of tenure. That has been part of the consultations that have been undertaken and we look eagerly for the response.

Budget: small business

Hon. JENNY MIKAKOS (Jika Jika) — Will the Minister for Small Business inform the house on how the recently delivered Bracks government budget will deliver for Victorian small business?

Hon. M. R. THOMSON (Minister for Small Business) — I am pleased to inform the house that the Bracks government has announced new Victorian government initiatives to boost support for small and medium-sized businesses. These initiatives are on top of the government's great Better Business Taxes package.

The government has allocated $500 000 from the Living Regions, Living Suburbs support fund to support Victorian small and medium-sized businesses, including strengthening mentoring and networking arrangements in regional areas of need.

In addition, the Bracks government is introducing the $1 million Skilling Small Business for the Future initiative to improve the business skills of Victorian small business operators. This important initiative will be funded through Minister Kosky's post-compulsory education, training and employment budget. It will encourage training providers, including those in regional Victoria, to deliver locally customised and flexible training that meets the skills needs of small business owners. Training providers will be encouraged to identify innovative approaches and flexible training deliveries, including off-campus and online training options.

The government will also be looking at integrating more closely the Victorian Business Line, the business centres — the 20 business offices that operate throughout Victoria — and the government's Business Access web site, to ensure the information provided to businesses is integrated, relevant and easy to access; and that it provides business with the information it needs to access business services.

Ports: rail gauge standardisation

Hon. B. W. BISHOP (North Western) — My question is for the Minister for Ports. Given the enormous spin-off benefits associated with the mineral sands deposits currently being developed across western Victoria, and taking note of her previous answer today, I ask the minister when the Bracks government will stop passing the buck about an ex gratia contribution by the federal government and the private sector and get on with the state responsibility of upgrading the Victorian rail network to ensure this future trade is not lost to an interstate port?

Hon. C. C. BROAD (Minister for Ports) — I have outlined to the house a $96 million — —

Hon. M. A. Birrell — Conditional!

Hon. C. C. BROAD — No, that is not the case — you are absolutely wrong! It is not conditional. The state government has committed $96 million, and it is not conditional on anything.

Hon. M. A. Birrell — That is not what the budget says.

Hon. C. C. BROAD — It is the case that if the commonwealth chooses to come to the party and commit $44 million to this project, which has national significance, this work can be extended beyond the $96 million that the state government has committed. It is $96 million more than the last state government committed to this.

The assertion implied in the question and in the interjections is that the commitment by the state government is conditional on something. That is wrong. However, the state government calls on the commonwealth to exercise some national responsibility and make a contribution to extend the state's commitment.

Budget: IR information services

Hon. D. G. HADDEN (Ballarat) — I ask the Minister for Industrial Relations what new services she proposes with regard to industrial relations?

Hon. M. M. GOULD (Minister for Industrial Relations) — I am pleased to advise the house of an important budget initiative by the Bracks government with regard to industrial relations. The budget provides for additional funding of $1 million to be dedicated to providing information, advice and support services to Victorian employers and employees. It marks a turning point in the restoration of important employment advice services that were abolished by the previous Kennett government.

The initiative reflects the concern of the Bracks government about the poorly funded Wageline, which everybody is aware is not working. The Howard government's poorly funded service has failed to provide information to employers and employees. Employers are calling for information. The Bracks government will redress the inadequacies of the federal government. Under this initiative an information and

advisory service will be provided through a dedicated unit that will be established within Industrial Relations Victoria.

The new service will provide employers with access to information and support services. It will be of particular benefit to small businesses in helping to promote the benefits of positive work practices and providing assistance in the resolution of workplace issues or difficulties.

This initiative will also provide the most vulnerable Victorian workers — women, people in country and regional areas, people from non-English-speaking backgrounds and young people — with access to the information they have been denied since the previous government shut down services. Workers were abandoned by the previous government and were not allowed proper access to information.

The Bracks government initiative will assist employers and workers in promoting fair and productive workplace practices and will help to grow business in this state.

Arnott's Biscuits: plant closure

Hon. B. N. ATKINSON (Koonung) — My question is to the Minister for Small Business. I note that in the other place the Victorian Treasurer committed this government to taking punitive measures against Campbell's Soups — —

Honourable members interjecting.

Hon. B. N. ATKINSON — Perhaps the minister would like to hear this question; I am sure she has some interesting things to tell the house.

Hon. Kaye Darveniza — I wouldn't bet on it!

Hon. B. N. ATKINSON — You said it. We must just agree!

The Treasurer committed the government to taking punitive measures against Campbell's Soups Australia and Arnott's Biscuits over the decision to withdraw some of its investment from Victoria. I note that last Friday the Minister for Small Business participated in meetings the Treasurer held with 15 biscuit manufacturers who would be competitors to Arnott's with a view to encouraging them to increase their investment and output in Victoria. It was suggested in a government press release that those companies step up production and product sales as it is likely there will be scope for them to take on some of the business that was previously done by workers at Arnott's.

I ask the minister to advise the house of the outcome of those discussions last Friday, and in particular what incentives have been offered to those biscuit manufacturers?

Hon. M. R. THOMSON (Minister for Small Business) — The government had a fruitful meeting with representatives from the biscuit companies last Friday. They have rarely had an opportunity to meet with and talk to one another to discuss some of the issues that affect their industry. It was an opportunity for them to learn some of the issues others faced, to share some of the common issues and to possibly provide future solutions. The government hopes to help manufacturers create a network to enable them to access the kinds of information they cannot get as small manufacturers to make them more competitive in the marketplace.

Some small biscuit manufacturers are looking to export, and in some instances are currently exporting. It is a terrific thing to see small manufacturers looking to find a niche for their products in overseas markets.

The government is looking to help the industry maximise its potential to compete in the marketplace and provide a network so it can work together to look for commonality and to share information. The government looks forward to small and medium-sized manufacturers being able to grow their business in Victoria and internationally not just for themselves but for Victoria and Australia.

Budget: IR information services

Hon. R. F. SMITH (Chelsea) — Will the Minister for Industrial Relations explain how the new industrial relations initiative will use existing community and business services to provide information and support services?

Hon. M. M. GOULD (Minister for Industrial Relations) — I thank the honourable member for his question; I know he is genuinely concerned about and interested in this matter.

I am pleased to advise the house that the industrial relations budget initiative will establish a dedicated information and advisory unit within Industrial Relations Victoria. The unit will consist of a number of information officers who will be the key resource for the delivery of the new advisory and support services.

The information officers will provide employers and workers with access to advice and assistance regarding minimum employment conditions, positive work practices and the resolution of workplace issues. The

officers will operate throughout Victoria. This will ensure that employers and workers in both urban and regional and rural areas will have access to much-needed advice and support on industrial relations issues.

The regional offices of the Department of State and Regional Development and relevant community-based organisations will be developed as service points for the information officers.

A key role of the information officers will be to train the trainers — that is, they will train people already working within the community and organisations and the community generally about industrial relations issues.

Groups that will be targeted will be local government, community organisations and business groups. Such training will ensure that as many Victorians as possible have access to much-needed workplace information. For example, information officers will be able to train people working in existing migrant resource centres to assist people from non-English-speaking backgrounds who regularly use the centres, especially those who work under minimum employment conditions, with their workplace rights. The officers will also ensure that Department of State and Regional Development staff throughout Victoria's business centres are up to date on industrial relations issues and information.

These measures will combine to ensure that the government is building communities by providing them with access to information that encourages cooperative workplaces — not like the opposition.

Budget: IR performance measure

Hon. M. A. BIRRELL (East Yarra) — I refer the Minister for Industrial Relations to page 302 of budget paper 3, which appears to indicate that the Minister for Industrial Relations has abolished the performance measure 'ministerial satisfaction with the quality of advice and services'. By way of contrast, page 35 of the same paper indicates that the Minister for Youth Affairs has introduced a budget performance measure to ensure that he is satisfied with the policy advice of his staff.

Given that in the past the Minister for Industrial Relations has, as a result of a leaked report, indicated her clear dissatisfaction with departmental advice, is it a fact that the minister's move to abolish this performance measure is a way of solving the problem by making sure it is not publicly exposed?

Hon. M. M. GOULD (Minister for Industrial Relations) — It is interesting to hear the comments of the Honourable Mark Birrell about a leaked document. It was a freedom of information document released to the opposition. There is no intention of keeping anything secret. The honourable member knows very well that I have a good working relationship with my staff. The branch has gone through an extensive consultation process and restructuring. As a result of questions raised last year by the Public Accounts and Estimates Committee about the whole restructure, the review is in place and is working well. My staff members work well with me and I work well with them.

Opposition members interjecting.

Hon. M. M. GOULD — I have a great working relationship with my officers at my branch, but I cannot say the same for what the honourable member had when he was in government!

Rural Victoria: youth services

Hon. KAYE DARVENIZA (Melbourne West) — Given his commitment to listening to the concerns of young people across Victoria, will the Minister for Youth Affairs advise the house of any youth services he has recently visited in regional areas?

Hon. J. M. MADDEN (Minister for Youth Affairs) — Recently I had the good fortune to visit the Seymour region and was delighted to open the new premises of Berry Street, a youth service that provides a wide range of youth and family services across Victoria.

The organisation commenced a foster care program in Seymour and its surrounding areas in 1994. Within four years the service system has grown to include training and employment programs, youth and family mediation programs and a school-focused youth service support program.

The Berry Street school-focused youth service works with the Seymour cluster of schools, taking in primary and secondary schools within the shires of Mitchell, Murrindindi and Strathbogie.

During the past three years the program coordinator has worked closely with all schools and the Department of Education, Employment and Training to ensure that a whole-cluster approach to reducing risk among young people and the community is adopted. The Berry Street service also runs a range of home-based care services in the shires of Mitchell and Murrindindi. The 31 carer families across the two shires provide care for 46 children at any one time. Berry Street provides a

continuum of care options, from respite and emergency through to transition and long term.

Prior to opening that facility, I had the good fortune to participate in a youth forum where young people from around the Seymour district raised a range of concerns, in particular issues such as access to services and the impact of local train timetables on youth in the area. Some of those smaller issues can be particularly significant for local communities, particularly young people.

I was also made aware of a number of youth initiatives in the area. Most impressive was an Internet cafe project and the development of a project by the local young people for a skate park in Seymour.

I also had the good fortune to meet Cr David McCulloch. I was introduced to him by Ben Hardman, the honourable member for Seymour in another place, who does a tremendous amount of work in the area. He is an excellent local member.

Honourable members interjecting.

The PRESIDENT — Order! Ms Darveniza asked an interesting question but does not seem to be interested in the minister's answer. Opposition members also are not helping the minister. I ask the minister to conclude his answer.

Hon. J. M. MADDEN — It was a tremendous opening. There was also a special guest. I do not care for name dropping in this house, but I will drop one on this occasion. The special guest was a local who has gone on to bigger and better things, Mr Tom Long.

Hon. I. J. Cover — He starred in *Seachange*.

Hon. J. M. MADDEN — He is from *Seachange*, and no doubt opposition members are experiencing their own sea change sitting on the other side of the house. He was a tremendous advocate for the work of the Berry Street service and had first-hand knowledge of many of the local issues, having grown up in the surrounding area.

I was also impressed with a performance by two young local people who displayed their talents with the didgeridoo and in song. It is a tremendous facility and program, and I congratulate the board, the management, staff and volunteers of Berry Street Victoria on their continuing good work in supporting needy young people and families across Victoria. I wish them well in their new Seymour premises.

QUESTIONS ON NOTICE

Answers

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

> That so much of the standing orders as require answers to questions on notice to be delivered verbally in the house be suspended for the sitting of the Council this day and that the answers enumerated be incorporated in *Hansard*.

Motion agreed to.

Hon. M. M. GOULD — The question numbers are: 1444–6, 1452, 1455–9, 1463, 1466, 1468, 1471, 1475–7, 1480, 1487, 1492, 1679–80, 1682–3, 1686–7, 1703.

BENEFIT ASSOCIATIONS (REPEAL) BILL

Second reading

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

> That this bill be now read a second time.

The purpose of the Benefit Associations (Repeal) Bill is to repeal an obsolete piece of legislation, the Benefit Associations Act 1958.

The Benefit Associations Act 1958 is based on the Benefit Associations Act 1951. The 1951 act was introduced to combat a perceived lack of regulation of prepaid benefit schemes. In particular, there was a perception of abuse of prepaid funeral benefit schemes where the solvency of some schemes and the predatory behaviour of undertakers promoting those schemes was a political issue at that time.

The 1951 act was passed with bipartisan support and the second-reading debates are instructive in what they reveal about the need for responsible regulation by governments in such important areas as sickness, hospital, medical and funeral benefits.

Prior to the introduction of the act in 1951, there was no control over the operations of those benefit schemes in Victoria. Large numbers of complaints had been received by members of all parties from dissatisfied subscribers. Funeral benefit schemes were of particular concern at that time.

A typical scenario of the day was for age pensioners to pay sixpence a week from their pensions (which they could ill afford) into a funeral benefit fund. In many cases after years of contributions, no benefit was received. There were anecdotes of substandard caskets

being provided and in one instance a crack appeared in the coffin during the funeral service. On other occasions relatives were obliged to contribute out of their own pockets to obtain a decent standard of coffin even though the deceased had made regular contributions over a lifetime well beyond the value of the funeral service being offered.

As the Honourable William Slater (formerly the Attorney-General in the first Cain Labor government) noted during the second-reading debate for the 1958 act:

> … their activities (i.e. funeral service providers) represent a very sad story in the social life of this state. Their failure inflicted the greatest possible misery on the most deserving section of the community because Parliament had not been careful enough to protect contributors.

Bodies regulated by the Benefit Associations Act

The Benefit Associations Act 1958 applies to associations (whether incorporated or unincorporated) which undertake or carry on the business of sickness, hospital, medical or funeral benefits. The act regulates these associations essentially by providing for registration of associations, separate trust funds for contributions, and close supervision of the rules of each association. The act requires these associations to be registered, unless exempt from registration pursuant to section 4 of the act.

However, no associations have ever been registered under either the 1958 act or the 1951 act that preceded it. Instead, a series of exemptions from the acts were granted to various associations, some unconditionally, but mostly with a number of conditions.

An examination of these exempted associations reveals why the Benefit Associations Act 1958 is now redundant.

The activities and business which were initially intended to be regulated under the act have instead been regulated under commonwealth legislation for many years. Seven organisations that were conditionally or unconditionally exempted from the act are also registered under the commonwealth National Health Act 1953 and are supervised by the Private Health Insurance Administration Council.

Most exemptions were conditional, often in respect of arrangements for funds being held in trust. These funds were held by various regulators, and more recently by the Victorian Financial Institutions Commission. A number of other exemptions exist which relate to now-defunct organisations.

Until recently, only two funeral funds remained outstanding as operating under exemptions from the act. However, all outstanding issues involving the funds in question were resolved prior to the winding up of the Victorian Financial Institutions Commission in July 1999. Any remaining funds and security, which had been held by the commission and previous regulators for many years, were then returned to the relevant organisations.

The Benefit Associations Act 1958 has also been rendered obsolete and unnecessary by the operation of a number of newer regulatory schemes.

No funeral benefits schemes have been granted exemption from the Benefit Associations Act 1958 since the 1950s. In relation to funeral funds, the Victorian Funerals (Pre-Paid Money) Act 1993 established a newer regime and is the more appropriate regime for continued regulation of funeral prepayment schemes.

As stated previously, the seven existing health benefit organisations that are exempt from the Benefit Associations Act are now administered under the commonwealth National Health Act 1953 which provides comprehensive regulation of the schemes.

Also exempt from the Benefit Associations Act are certain nominated life insurance companies and all insurance companies (other than life companies) authorised to carry on insurance business under the commonwealth Insurance Act 1973.

Insurance companies and insurance agents are now regulated under commonwealth law by the Australian Securities and Investments Commission (ASIC) and the Australian Prudential Regulation Authority (APRA). It is considered inappropriate to maintain continued regulation of the activities of insurance companies regulated by commonwealth law: first, because there has been no active regulation at state level anyway, and secondly, because there appear to be no demonstrated problems with the commonwealth regime that requires supplementation by state law.

It is apparent that while at the time of its introduction the Benefit Associations Act 1958 served a useful purpose, subsequent legislative developments at the commonwealth and state levels have made the act redundant and suitable for repeal. The government is committed to streamlining Victoria's statute book and removing any unnecessary burdens for business. This bill clearly achieves that aim.

I commend the bill to the house.

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

Debate adjourned until next day.

PROFESSIONAL BOXING AND MARTIAL ARTS (AMENDMENT) BILL

Second reading

Debate resumed from 4 April; motion of Hon. J. M. MADDEN (Minister for Sport and Recreation).

Hon. I. J. COVER (Geelong) — It gives me pleasure to speak on the Professional Boxing and Martial Arts (Amendment) Bill and to say at the outset that the Liberal Party in opposition does not oppose the bill.

The bill is not unlike the legislation we were debating last night — that is, the Racing and Betting Acts (Amendment) Bill — as it spent a similar lengthy period waiting in the wings to be debated, and it was also read a second time late last year.

It is interesting to note that in the time between the bill being debated in the lower house — it was on the notice paper on 3 April — and coming to us in the upper house, incidents have occurred in boxing both in Australia and New Zealand, the New Zealand incident involving an Australian, which have focused a great deal of attention on boxing. Those incidents have led to a degree of public interest and debate articulated not only by the public but also by members of Parliament, both state and federal.

It should be recorded at the outset that in the first incident, which occurred on 6 April — three days after the legislation was debated in the lower house — Queensland boxer Ahmad Popal died after a fight at the Collingwood town hall. That matter is being investigated by the coroner. Suffice to say that on behalf of my colleagues on this side of the house and indeed of all boxing followers and sports fans in general in Victoria, I extend condolences to Ahmad Popal's family and friends.

Only a couple of weeks after that a Perth boxer, Patricia Devellerez, was hospitalised after a boxing match in New Zealand. That incident brought further focus on professional boxing and on the participation of women in boxing in particular.

Those events will no doubt be at the forefront of the public debate on boxing and will be addressed by the community and perhaps by the Victorian Parliament as well as the commonwealth Parliament. When debate on the bill is concluded and the minister is summing up, he may well take the opportunity to give some indication to the house about what direction the control and conduct of boxing in Victoria might take over and above what is already contained in the act and in the bill we are debating today.

Hon. R. A. Best — Particularly given the calls by the federal government and the AMA.

Hon. I. J. COVER — Yes, in the context of the debate on the public issues that have been raised by members of both the federal Parliament and the Australian Medical Association.

Like boxing itself, which brings people from the blue corner and the red corner together in the fighting game, the issue of boxing brings with it views from each corner of the ring; it will always be thus, but we cannot shirk the issues if we are to take the sport of boxing and the community forward.

Another interesting point about the bill is the fact that it results from a national competition policy review. Honourable members were discussing bookmaking and betting last night, and if we were going to run a book on legislation that might be the subject of a national competition policy review I would have thought professional boxing and martial arts would have been at very long odds. However, the sport is conducted in a professional manner and involves professional fight promoters putting on both boxing and martial arts events, and it therefore attracts scrutiny from the national competition policy review.

The bill is small, with only a few minor amendments, but they have arisen from the national competition policy report. I have a copy of that report, which is a large document and much more comprehensive and lengthy than the bill, but the bill's amendments have been drawn from that document.

In conducting the review, a number of interesting statistics were brought forward which I will share with members of the house so they may get a better understanding of the extent of the industry, which is what the professional boxing game is.

The national competition policy report of August 1999 found that in Victoria there were 29 licensed contestants in boxing and 360 in martial arts; 4 promoters in boxing and 17 in martial arts; 64 boxing trainers and 107 martial arts trainers; and then smaller numbers of matchmakers, referees and judges.

One of the purposes of the bill is to remove the need for people engaged in professional boxing and professional martial arts — henceforth to be known as combat

sports — to register twice if they compete in both professional boxing and professional combat sports contests by providing for a single certificate of fitness to be used in both types of contests.

It was interesting to discover that there are eight contestants in Victoria who compete as both boxers and kickboxers. The proposed change, which will require people involved in both sports to be registered only once, is not a dramatic change. The Liberal opposition has consulted widely on the bill, and given that only eight contestants are involved in both sports, we would not have had to spend much time consulting with each of them.

As I say, the bill requires those people to register just once and to hold one single certificate of fitness. However, that is not to say that the proposed Professional Boxing and Combat Sports Board will be any less diligent than the current board in ensuring that the health and safety of contestants in professional contests are paramount, which is of course the most important aspect of the act.

In preparing for this bill the opposition met and consulted with Bernard Balmer, the chair of the Professional Boxing and Martial Arts Board. He has taken up the position previously occupied by Ron Casey.

It was remiss of me last night not to mention the work that Ron Casey did as the former chairman of Harness Racing Victoria. I will certainly not miss the opportunity today to acknowledge not only that work but also his work as chairman of the Professional Boxing and Martial Arts Board.

The name Ron Casey is synonymous with sport in Victoria, and certainly with boxing and its rich and colourful history in this state. As honourable members well know, Ron Casey presided over the longest running television sports program in the world, *World of Sport*, which ran for some 28 years on Channel 7. It was during that period that he not only hosted but produced and single-handedly ran that Monday night television institution, *TV Ringside*. When talking about the rich and colourful history of boxing in Victoria it can be said that nothing was more rich and colourful than *TV Ringside*.

Hon. P. A. Katsambanis — You're lucky you're old enough to remember.

Hon. I. J. COVER — Although I must say that as a youngster I did not necessarily tune in to watch the fights, I could not disagree that the great entertainment value was provided by Merv Williams, as Ron's co-commentator. It is a great pastime to gather with sports fans and see who can trot out the most memorable Merv Williams one-liner, which he used to deliver with great regularity. Last night in the debate on the Racing and Betting Acts (Amendment) Bill the Honourable Bob Smith got halfway to using one of Merv Williams's lines when he was talking about harness racing being like the boy with the barrow — it had the job in front of it. I think that is certainly one that Merv used on more than one occasion to describe a boxer who might have been struggling a bit in a fight. As I said, quite often when sports fans gather together they try to see who can come up with the most memorable line. Even one of the Clerks is now trying to come up with one, and quietly offering one to me — the one about swinging wildly like a garden gate in a storm.

Hon. B. N. Atkinson — I heard that one differently.

Hon. I. J. COVER — I stand to be corrected by the Honourable Bruce Atkinson when he makes his contribution to the debate, which I am anxiously looking forward to.

If one of the boxers had been struggling a bit, had the job in front of him like the boy with the barrow and inevitably ended up on his back, Merv was often heard to say, 'He's been hit everywhere except the roof of his mouth and the soles of his shoes'. It was always great entertainment listening to Merv, if not watching the boxing itself.

Who will ever forget some of the people who fought on *TV Ringside*? There is always great discussion among sports lovers and boxing fans about who was the most famous to fight on the show and who provided the best entertainment value. It was clear from the commentary on many occasions it would be fair to say that Ron Casey's personal favourite was Kahu Mahanga, who seemed to be a regular contestant, because he always gave great value for money and was a very tough competitor. I also recall another smaller boxer who had fought with a lot of enthusiasm. He was a chap named Sammy Rapa, and I think he was a rapper by name and rapper by nature, because he often seemed to be rapping his opponents around the ears in a very animated fashion.

TV Ringside also brought to the attention of sports fans our two most high-profile world champions — Lionel Rose and Johnny Famechon. Mr Katsambanis said earlier by interjection that I must be old to remember some of those things I mentioned, but I point out that I was very young at the time. These days we turn on the television and see sport from all over the world in an

instant, but when Lionel Rose first fought for the world title in Japan there was no such thing as live television coverage. It was the late 1960s and the television picture was black and white. The only way of knowing live what was happening was by tuning in to the old radio station 3DB and hearing Ron Casey call the fight.

I remember listening in my brother's bedroom to a crackly radio as Lionel Rose, fighting against Fighting Harada, seemed to be getting on top in the fight and getting closer to actually claiming the world title. Ron Casey's call was memorable. I suppose Ron was a very fair and impartial broadcaster, but being an Australian in a foreign land and seeing an Australian about to wrest the world title he was obviously excited by the occasion. Towards the end of the fight, he broke away from his commentary to take the role of spectator and barracker. Who will ever forget his immortal words, breaking into his own commentary and saying, 'Hit him, Lionel, hit him!'? I think when he was challenged about it later Ron said it was obviously just someone in the crowd sitting behind him whose barracking had leaked through the microphone.

Hon. P. A. Katsambanis — It was Joe the Cameraman.

Hon. I. J. COVER — Exactly — the earliest experience of Joe the Cameraman!

They were two great world champions who had great exposure through *TV Ringside* and made frequent appearances on the show.

Of course, the Minister for Sport and Recreation, with his own football background, may share with me and other members a memorable image of football crossing over with *TV Ringside* in the days before the Brownlow Medal was telecast. After the votes had been counted at Harrison House someone went around to the Brownlow medallist's house and escorted him to Festival Hall to be introduced to television viewers.

In 1968 Bob Skilton won his third Brownlow — it led to his being described forever more as 'triple Brownlow medallist Bobby Skilton' — and he appeared in the ring with two black eyes and looked like he had been involved in a couple of the boxing events. He had actually sustained them in a match on the previous Saturday, and on the following Monday night was in the ring with Ron Casey being introduced as the Brownlow medallist probably only an hour or so after the votes had been counted and the winner determined.

Boxing has had a rich and colourful history, and from time to time it attracts scrutiny because of events that are beyond the control of the legislative or regulatory framework that is in place. As I said earlier, this bill continues to be a challenge for the government as the legislator responding to issues as they arise and putting in place safeguards so that some things can be avoided.

I should say that perhaps there was an opportunity for the government in responding to national competition policy review and putting together this bill to adopt another recommendation — that in consultation with industry bodies and medical authorities Sport and Recreation Victoria examine the scope for replacing legislative provisions that detail prescriptive rules with provisions that, for instance, cite national or international industry standards or set performance-based criteria. Although that recommendation has been overlooked on this occasion, and may well be deemed to be a missed opportunity by the government, it might be addressed in the future, particularly in relation to a national or international industry standard, given that boxing takes place right around the world.

The other point to note is that the bill is also moving to change the name of the principal act to the Professional Boxing and Combat Sports Act.

Martial arts will now be called combat sports, a term that better describes the types of martial arts and contact sports that take place other than professional boxing. The Professional Boxing and Martial Arts Board will now be called the Professional Boxing and Combat Sports Board. This change of name has the approval of the board.

I have no doubt that from time to time professional boxing and combat sports will need to address ongoing issues. I am sure the minister will be diligent. Yesterday he told the house of the fine people he has providing advice to him as well as members of the board. The executive support officer in the combat sports section, Bart McCarthy, is a fine man with a long history and association with boxing. I am sure he will provide the necessary advice to the minister, as will Grahame Wise, who briefed the opposition on this issue. I conclude my contribution by indicating that the Liberal Party does not oppose the bill.

Hon. R. F. SMITH (Chelsea) — Mr Cover's colourful contribution is a hard act to follow. I recollect Merv saying, 'He is throwing them from everywhere, including the two-bob seats'. The Marquess of Queensberry established the first rules of the noble art in the 18th century. Even today we use the term 'not according to the Marquess of Queensberry' when referring to fair play in different aspects of society.

Boxing is a contentious sport. As society becomes more civilised it will become more contentious and more people will question its relevance and appropriateness in a modern society. I am in a reasonably good position to comment on it given that for most of my life until relatively recently I was a huge boxing fan. I remember the turning point in my view of boxing occurred when sitting ringside in Brisbane watching Tony Mundine defend his commonwealth middleweight title against Alan Bate, a Pom. Tony Mundine belted the living suitcase out of Alan Bate to such a degree that most of us sitting ringside were splattered with blood. It made me realise that it would be hard to support boxing even if you were sitting in the back seats of the stadium. It brought home to me the brutality of the sport. In a civilised society why do we encourage and pay money to see people belt the suitcase out of each other? People almost kill each other in the ring just like in the days of the gladiators.

I support the legislation and I will indicate why later. However, I record my growing concern for the relevance of professional boxing or combat sports. Recently young men have been killed in the ring which drives home the fact that we have encouraged, condoned and legalised professional boxing. Eventually we will be forced to debate whether we should ban boxing. I note some strong lobbyists encouraging the banning of boxing, especially the Australian Medical Association and numerous concerned activists. Indeed, the Premier has said that he does not believe boxing will be banned in the near future, but public pressure will mount and Parliament will debate some time in the future — I hope sooner rather than later — whether professional boxing should be banned.

Many people like to watch boxing on television. The infamous Mike Tyson has brought the sport into disrepute. Combatants fight for big purses and often we see the top end of town paying lots of money to sit ringside to see people belt the tripe out of each other. In London people attend formal dinners with their ladies at which the main entertainment is professional boxing. It is not something I am particularly fond of.

The bill will introduce much-needed regulation and provide, as much as we can expect, a safe and more regulated sport. It will help to protect participants, although there are no guarantees and I do not think we will avoid some people being severely damaged, belted, maimed or even killed in professional contests. That is one of the main reasons I now question my support for professional boxing.

The bill amends the Professional Boxing and Martial Arts Act in a number of ways and brings Victoria into line with national competition policy. The principal act is the product of the amalgamation of the Professional Boxing Control Act and the Martial Arts Control Act, which brought all professional contexts in boxing and martial arts under the control of the one board, an eminently sensible thing to do. The primary purposes of the act are to protect the health and wellbeing of the participants of boxing, kickboxing and any other form of martial arts. The bill will remove the term ‘martial art’ and replace it with the term ‘combat sport’. We should think about that.

The term ‘combat sport’ includes kickboxing and any other emerging full-contact contests. Most of us cannot keep up with the different forms of martial arts, but it covers all combat sports and hence the rationale for the term.

Currently any individual who contests one or more of the sports requires dual licences. The bill removes that requirement. As already mentioned by Mr Cover, only a handful of people are currently engaged in both forms of the sport, but it could grow and have an impact on numerous people. There has been a significant upsurge in the number of people participating in martial arts or combat sports, and in particular a rise in the number of young women who want to engage in combat sports.

History shows that unchecked combat sports such as martial arts, boxing and so on denigrate and expose participants in a way that most of us would agree is degenerate and unacceptable. They become extremely brutal, and sometimes boxing ought to be compared with dogfighting and cockfighting, which are brutal blood sports. All honourable members know of or have heard rumours about people who fight underground, where there are no regulations, no medical practitioners present, no gloves and so on. It is extremely brutal and most people do not condone it.

The bill in some way gives hope that controls can reduce the dangerous aspects of the sport. It also allows the responsible minister, on receipt of advice from the Professional Boxing and Combat Sports Board, to exempt from the provisions of the act any amateur organisation under its control which conducts bouts to which the public is admitted and is required to pay for admission — for example, the public pays to see amateur boxing events at the Olympic Games and the Commonwealth Games so long as the minister is aware of it and approves. The bill sets out how the minister must recognise an amateur organisation for it to be exempt under the act. Amateur boxing and combat sports do not and are not intended to come under the control of the legislation, which is intended to control professional combat sports. The bill provides immunity

for members of control bodies when they are acting in good faith.

I have already outlined the dangerous aspects of boxing, and in Victoria three deaths have occurred from boxing contests. The first, in 1975, led the introduction of the legislation controlling boxing in this state. Although few serious injuries have occurred in kickboxing, other than broken limbs, kickboxing contestants are now required to wear shin guards and other protective gear where the contestants have had five flights or fewer. This move has been welcomed by the industry.

The bill provides that a medical practitioner with the appropriate equipment must be in attendance at all fights. When watching *TV Ringside* and televised international fights it has always been a great relief to see a distressed competitor in real trouble being attended to quickly by a doctor. I am sure it is more than a relief to the participant's family. The appropriate medical emergency equipment is also provided by the board at all professional contests. To compete, a professional contestant has to provide annually certificates of fitness and serology — that is, HIV, hepatitis B and hepatitis C.

A registered doctor must examine each contestant no more than 24 hours before each fight and again not more than 24 hours afterwards. The board has the power to require other medical tests to be undertaken when that is considered necessary. There will always be disputes. I recall on the odd occasion Filipino fighters coming to Australia and there being question marks about the suitability of their previous fight records and so on. They may have had three fights the previous week in the Philippines and have then come to Australia. Each one of those young Filipino fighters who came here had the suitcase, so to speak, belted out of them, and it was not a pretty sight. I believe these regulations are more than timely.

Contestants cannot fight for 7 days after a fight of six rounds or less and for 14 days after a fight of seven rounds or more. Like Mr Cover I have never heard of a seven-round fight, so I am not sure whether it is relevant, but if one goes beyond six rounds this measure will cover a contestant.

In the case of a loss by knockout or technical knockout the contestant cannot fight for 30 days. If one takes football standards into account, 30 days is considerable. Years ago footballers who were concussed automatically missed the next week. I am certain the Minister for Sport and Recreation will agree with me, but today there is a lower standard or a better medical understanding of concussion and regularly footballers who are concussed one week are playing the next week. It is unusual for a footballer to miss playing a game after being concussed. I believe a 30-day break guarantees that concussion will not be a problem for a fighter.

Following a second consecutive loss the contestant cannot fight for two months, and after a third consecutive loss, for three months. I should imagine one would be thinking of giving it away after three consecutive losses, but there are always workhorses.

If a contestant fails to win in six consecutive fights he or she is required to undergo a medical examination, and maybe a psychiatric one as well, by a doctor nominated by the board. That doctor can order specific tests if that is considered necessary. The board has a discretionary power to cancel or suspend a registration if it thinks fit.

The participation of minors in boxing or combat sports is covered in the bill, which requires that the person be over the age of 18 years to participate before being able to be registered for a professional contest, and, as I said earlier, with regard to amateur contests where payment is made. Boys and girls under the age of 18 are not covered by the bill, but stricter rules apply to the control of amateur boxing, including protective measures such as head gear, better padding, shorter rounds of 1 or 2 minutes, a maximum of three rounds and so on.

I turn to the Professional Boxing and Martial Arts Control Board, which will become the Professional Boxing and Combat Sports Board. Under the bill membership of the board will consist of five members. Currently the membership consists of Dr Simon Hillman, Bernard Balmer, Scott Brouwer, Robert Todd and Malcolm McGuinness.

Mr Cover may assist me by advising whether Scott Brouwer is a former fighter.

Hon. I. J. Cover — Yes.

Hon. R. F. SMITH — I think he may be a professional person.

Hon. I. J. Cover — I think he is selling insurance.

Hon. R. F. SMITH — I think he is an accountant or a lawyer. He was unusual in his day in that he came from a more affluent family, had a good education and was not a bad looking boy from memory.

The inclusion in the membership of the board of a medical representative and a former boxer suggests that

its composition is quite well balanced. The members of the board will be entitled to be paid fees and allowances and expenses as fixed by the Governor in Council. All appointments to the board will be made by the minister responsible for the act. The board must have five and can have up to seven members appointed for a term not exceeding three years.

The role of the board is to advise the minister on all matters relating to professional contests, exercising the powers conferred on it under the act and advising the minister on the development and administration of the rules for the proper conduct of professional contests. The role of the board includes, among other things, the licensing of persons involved in professional contests as contestants, matchmakers, promoters, trainers, referees and judges. It will be responsible for the issuing of permits, imposing conditions on the licence or permit, ensuring the medical fitness of professional contestants, making rules for the proper conduct of professional contests, regulating the use, standards, facilities and inspection of gymnasiums, and instituting proceedings for offences under the act or regulations.

The participation of women in boxing and other combat sports is a topical and contentious issue. It is probably timely to discuss the matter. I have explained my view of the sport and its relevance. Women are also entitled to get into the ring and belt the suitcase out of each other, so to speak — as long as they have in place all the systems that offer the best protection they can have. I suppose the marketplace will decide whether that sport has a future. You would wait a long time for me to pay money to go to see two young women fight. That is not to say that other people would not. It is clearly a sport that is gaining some popularity among young women. As the father of 22-year-old and 20-year-old daughters, I am at a loss to understand why, but there you have it.

Currently, 35 women are registered as professional contestants in Victoria, with 6 boxers, 22 kickboxers and 7 Kyokushin karate participants. The act requires a person to be over the age of 18 years before being able to be registered for a professional contest. It does not permit minors to take part in professional contests.

In conclusion, for all the reasons I have outlined, particularly given that the bill sets out to provide a safer environment for contestants, I commend the bill to the house.

Hon. R. A. BEST (North Western) — It gives me pleasure to contribute to the debate on the Professional Boxing and Martial Arts (Amendment) Bill. The National Party supports the fundamental objectives of the bill. I acknowledge that the bill is driven by national competition policy, although there is no overriding commonwealth legislation governing the conduct of amateur or professional boxing as a sport.

As honourable members have heard, the primary purposes of the bill, among other things, are to protect the health and safety of contestants in professional boxing contests, including kickboxing. The bill proposes that instead of two registration bodies there will be one and that contestants hold one licence applicable to all categories of professional boxing and martial arts.

It is my contention that the activities of the boxing fraternity in Victoria are very well regulated. There are sufficient controls in place to protect contestants from being permanently damaged. I understand that it is mandatory for amateur boxing groups to have at the ringside a doctor who supervises the health and wellbeing of the contestants participating in tournaments. I understand that ambulances are also required to be in attendance.

It is well documented that in 1990 the Australian Medical Association adopted an anti-boxing policy. Representatives of the AMA claim that the sport is barbaric and that it has no place in modern society. They continue to argue that boxing can lead to serious injury or death and that over time it can cause chronic brain damage.

All honourable members who have followed boxing are well aware of the view of the AMA and the constant and opportunistic remarks made by its representatives each time a boxer suffers a serious injury. Amateur boxing accounts for a negligible number of injuries, and very few of them are serious. However, in the past decade there have been 11 deaths among high-profile boxers. The contest between boxers should not be underestimated. It is fierce and competitive and is based on the theory that the boxer must beat his or her opponent to win, whether by knockout, technical knockout or a points decision.

I refer to the injuries suffered in boxing and put on the record a comparison of injuries and deaths in boxing with those among participants in other sports. In New South Wales during the 12 years to 1996, 49 rugby players suffered permanent paralysis below the neck. I refer to comparative sporting statistics in the United States in 1995. The fatality rates per 100 000 participants show that in horseracing there were 128 deaths; in skydiving, 123 deaths; in hang-gliding, 55 deaths, in motorcycle racing, 7 deaths; and in boxing, 1.3 deaths.

The so-called medical arguments against boxing are not based on objective health and safety issues. Some of the other sports are far more dangerous than boxing, yet the AMA makes no criticism of those whatsoever. I refer to a study on sports injuries undertaken in the Latrobe Valley. I will provide the house with some statistical information that demonstrates that boxing in Victoria is well controlled. It is unfortunate, particularly given the opportunistic nature of the comments by representatives of the AMA and the very unfortunate circumstances of a recent bout in Collingwood, as referred to by Mr Cover, that the federal government has reacted as it has, with the federal health minister — not the sports minister — suggesting that boxing should be banned.

I place on record my sympathy to the family of Ahmad Popal, whose unfortunate death was the source of the opportunistic comments that have been made.

I turn to the policy position statement of the AMA, which I took from its web site. In addressing any legislation it is important to identify an organisation's position. It is clear that the AMA is opposed to all forms of boxing. The AMA recommends the prohibition of all forms of boxing for people under the age of 18. The policy states:

> 5. Until such time as boxing is banned, the AMA supports the following steps designed to minimise harm to amateur and professional boxers:
>
> 5.1 At all boxing contests, a medical practitioner should be present and responsible for the medical supervision of that contest. The medical practitioner must be adequately trained to perform ringside resuscitation, including endotracheal tube insertion;
>
> 5.2 All boxing jurisdictions should ensure that medical practitioners overseeing any context are authorised to stop the contest at any time to examine a contestant and, if necessary, terminate the bout …

The policy then refers to a range of other measures that the AMA believes are appropriate for the regulation of boxing.

Like the Honourable Bob Smith, I looked up the rules of proper conduct of a professional boxing contest. It is clear that it is a well-regulated sport, particularly in Victoria. Like Mr Cover, I believe the people who run boxing in Victoria and are responsible for the shaping of and promotion of boxing events have been people of the calibre of Ron Casey. We must ensure that many of the shadier characters often at the fringes of some sports are prevented from being promoters or being involved in promoting fights within the sport by regulating and controlling the sport.

Last night I spoke of Ron Casey's involvement on the Board of Vichealth and his association with Harness Racing Victoria. Today honourable members have been reminded of Ron Casey's love of, support for and involvement in boxing over decades. Not only was he prepared to be a supporter, he was prepared to be an administrator in the sport. Unfortunately there are many people on the fringe of the sport who do not always have the best interests of the sport at heart but are more interested in earning a dollar out of the sport at somebody else's expense without ensuring that the proper rules and responsibilities associated with a promotion fight are met.

It is interesting to read the conditions attached to a contestant's registration, and one can understand just how well regulated Victorian boxing is. The conditions of registration state:

> You must take your registration book to every contest and give it to the doctor before the fight. The doctor must examine you before the fight and again after you have completed. You must not leave the stadium without being examined by the doctor after your fight.

These rules are issued to every boxer. The conditions further refer to what must be worn and what must be done during every contest. They state:

> During every contest you must:
>
> (a) wear a mouthguard (other than a self-moulded mouthguard) fitted by a dentist or advanced dental technician; and
>
> (b) wear appropriate groin protection which must be firmly adjusted before leaving the dressing room; and
>
> (c) wear loose-fitting trunks that have a belt which does not extend above the waist line; and
>
> (d) wear shoes of a soft material which are not fitted with spikes, cleats, hard soles or hard heels; and
>
> (e) not allow your hair to interfere with your vision or safety and the vision and safety of your opponent.

The conditions further state:

> You must not wear an emblem on your trunks which is of a potentially offensive nature.
>
> If you do not win in six successive contests you will not be permitted to compete until you have passed an examination as directed by the board.
>
> One hour before the scheduled start of the promotion you must report to the promoter or, if you are in the main event, 2 hours before the scheduled start of your bout.
>
> If you are knocked out or judged unable to continue you cannot leave the venue until permitted to do so by the doctor.
>
> …

> If you compete in a fight of six rounds or less you cannot compete again for seven days or if you are in a fight of seven rounds or more you cannot fight again for 14 days or, in both cases, for a longer period if the doctor says.

That range of stringent medical protections was put in place to ensure the welfare and wellbeing of the contestants. They are the conditions attached to contestants' registration, but other rules of boxing include a range of issues, such as gloves being wiped and cleaned, the cessation of a count if a contestant is knocked out of the ring, disqualifications, the duties of the referee in the case of a knockdown, the mandatory count of eight when the contestant is deemed to be down and when a contestant is helpless on the rails.

Boxing in Victoria has been well regulated and continues to be well regulated. Like all members of Parliament, when this bill was introduced I wrote to various interest groups to seek their attitudes to it and to find out whether they had any concerns about the direction the government was taking. I wrote to the Australian Academy of Boxing and I received a letter on 11 April 2000 from Dereck Herbert, sports director. The letter states:

> Dear Sir,
>
> This fax is with regard to a request from your secretary … for pertinent information on injuries within the sport of boxing and the comparison with other sports. This request I understand is due to the recent unfortunate accident that has allowed the media to drum up the usual hue and cry.
>
> For your perusal I have furnished a two-year better health project study of comparison sport injuries within the Victorian Latrobe Valley region plus newspaper reports of 10 and 49 respective fatalities in the sports of horse riding and mountain climbing within a one year and a five-week period.

I was delighted to receive this information from the better health project based on the Latrobe Valley, because I was able to ascertain that it was sponsored by Vichealth. It resulted from project funding that the former government provided in the early 1990s to identify sports injury reduction in the Latrobe Valley.

I turn to some of the comments made to put into perspective the relative injuries that occur during sporting competitions across a range of sports. I place emphasis on the relationship between boxing injuries and injuries in other sports. By way of background I will read from the press release of the Latrobe Valley better health project entitled 'Sports injury reduction in the Latrobe Valley'. The press release states:

> Sports injury reduction in the Latrobe Valley has been a subject of interest for certain members of the sporting community and the better health project since the start of 1992. Injury data collected at the Accident and Emergency Department of the Latrobe Regional Hospital VISS (Victorian Injury Surveillance System) shows that over the two-year period (July 1991-June 1993) a total of 2044 sporting injury cases attended the emergency department. This represents 11 per cent of all injury cases attending the hospital.

The press release goes on to say:

> Sponsored by the Better Health project, a group of people specifically concerned with injury in sport, have met together over the past 12 months to develop a preventative/awareness-raising program. Some of the most effective ways to overcome sports injury is the use of protective gear and correct body conditioning (warm-up and cool-downs) …

The minister would be aware of that from his Australian Football League days:

> An extensive study by Nolan and McMahon (reported in the September 1993 issue of the Australian medical journal) shows the effectiveness of rule modification for under-age Australian Rules football players in Melbourne.

The report goes on to state:

> Injury in valley sport — some statistics to remember:
>
> During the last two-year period (July 1991 to June 1993) sport injury in the Latrobe Valley revealed the following:
>
> 1. A total of 2044 sporting injury cases presented to the accident and emergency department of the Latrobe Regional Hospital at Moe and Traralgon.
>
> 2. Of these, over three-quarters occurred in males (76 per cent)
>
> 3. Sixty-six per cent were in the 10-24 year age group and May is the month of highest incidence.

That may have a lot to do with the football season, particularly early in the season:

> 4. Fifty-three per cent of cases required significant treatment with 4 per cent being admitted or transferred to (another) hospital.
>
> 5. The most frequent type of injury was sprain or strain (33 per cent), particularly to the ankle, knee and fingers. Fractures made up 16 per cent of injuries, of which the most frequent were to the lower arm, fingers and radius/ulna. Bruising made up 13 per cent of injuries, cuts and lacerations 12 per cent and dislocations 5 per cent.

The report then lists all the sports, the number of presentations, and the percentage of total injuries. For obvious reasons football headed the list, with 688 presentations and 33 per cent of total injuries. According to the list basketball, netball, cricket, soccer, rugby, tennis, hockey, squash, volleyball, gymnastics, track and field, badminton, martial arts, golf, horseback riding, roller skating, aerobics and cycling were all ahead of boxing, and only lacrosse — the number of

participants I am not sure of — was equal with boxing at a presentation rate of 1 and a percentage of total injury rate of 0.05 per cent.

That is a definitive report which has been published in the *Medical Journal of Australia*. It highlights the fact that boxing is well regulated, particularly amateur boxing, which is excellently regulated.

To provide some comparisons I will refer to articles from various newspapers. A news item in the *Age* of Tuesday 26 August headed 'Alps claim six more lives' states:

> Six people died in the Swiss Alps at the weekend, including two on the Matterhorn mountain, raising the death toll since mid-July to at least 49, officials said today.

Hon. Bill Forwood interjected.

Hon. R. A. BEST — No, Mr Forwood; if you had been here you would understand that I am making comparisons between injuries received in boxing and those received in other sports.

The *Age* of 5 August 1997 contains an article about climbers, which states:

> Europe's highest mountain range claimed the lives of 13 mountaineers this weekend, bringing the toll from climbing accidents in the Alps in recent days to more than 30, officials said yesterday.

I also have an example from the United Kingdom. A report in the *Age* of 2 May 2000 headed 'Sixth British rider killed' states:

> Equestrian: Britain has recorded its sixth rider fatality in less than a year. Leading Briton Jemima Johnson, 38, was killed at trials in Wilmslow in northern England after being crushed under her horse at a log-pile fence. As well as the deaths in Britain, two riders in Australia have died over a 12-month period as well as one in the United States and another in Switzerland. All but one were killed by their horses falling on them.

Then there was the article in the *Age* of 21 November 1998 by Gay Alcorn in response to opinions that had been floating around Britain. The article states:

> Dr Nigel Warburton, writing in the *Journal of Medical Ethics*, attacked the British Medical Association's opposition to boxing (on the same grounds as the AMA's) noting that, between 1986 and 1992, it had accounted for only 3 deaths in England and Wales, compared with 77 deaths from motor sports, 69 from air sports, 54 from mountaineering, 40 from ball games and 28 from horse riding. It was clear, too, that smoking and drinking posed greater health risks than boxing, yet 'there is no question of the BMA —

the British Medical Association —

> calling for a legal ban on these activities'.

That is just some of the emotional debate that has been published in various newspapers. The AMA is trying to opportunistically pursue its agenda through the unfortunate deaths that occur from time to time in the boxing ring.

I will not go through all the components of the bill, but I remind honourable members that it was part of national competition policy. I urge the minister to advise the house of his attitude towards future boxing controls and whether his government is prepared to support the views expressed by the federal health minister or whether he is satisfied that boxing in Victoria is well regulated, well run, well promoted, and well controlled. I would particularly like to hear his views about the future of women's boxing, an emerging issue which needs to be addressed. I suggest that it may be pertinent to think about having discussions across party lines before pursuing the issues in the open to give some idea of the government's thinking.

I again place on record my congratulations to Ron Casey for the wonderful job he has done with boxing over many years and also with looking at future issues that will occur. It is important that the board that controls boxing is aware of those people at the fringe of boxing who have the potential to bring the sport into disrepute. It is terribly disappointing to see some of the farcical situations that occur in other countries; with some boxing events the promoters are obviously more interested in the dollar return than in ensuring a good and entertaining fight.

The minister is aware that the AMA has strident views. A range of issues, including women's boxing, need to be addressed in the future.

I am like most people from sporting backgrounds and enjoy sports other than the ones I have participated in. I will not forget the Rumble in the Jungle, the great fight at 5.00 a.m. when the great Muhammad Ali took on George Foreman. For five or six rounds George Foreman slathered Muhammad Ali and basically punched himself out, but the great man was then able to prove himself superior and a far more intelligent boxer than people gave him credit for before that fight.

Australia is proud of its boxing heritage of Johnny Famechon and the great Lionel Rose. My favourite *TV Ringside* boxer was the great Kahu Mahanga. From discussions I had in later years with Ron Casey, he was unquestionably one of Casey's favourite fighters. I was quite young when *TV Ringside* first commenced but each Monday night we would sit up and watch the black and white television while the great Kahu Mahanga would invariably knock out his opponent.

Boxing is healthy and well, although some issues need to be addressed in the future. As I intimated before, the National Party is pleased to contribute to the debate and wishes the bill a speedy passage.

Hon. B. N. ATKINSON (Koonung) — We stopped feeding Christians to the lions some years ago and it is time we completely banned the sport of boxing. At some stage in the not-too-distant future I hope the body established by the bill as the successor to the two existing bodies bites the bullet and looks at greater regulation of boxing, and preferably the banning of boxing.

At a subsequent time I am considering moving a private member's bill to ban boxing because I do not believe it is a sport or that in this age we should entertain boxing as an activity in this state. There are far more appropriate alternatives available to pursue sport and opportunities that give people the chance to compete at an international, national and state level using their skills and fitness. Towards the end of his speech the Honourable Ron Best used the words 'an intelligent boxer'.

Hon. Bill Forwood — Oxymoronic!

Hon. B. N. ATKINSON — Exactly. The concept of an intelligent boxer is was one of the greatest contradictions in terms I have ever heard. Boxing would be the last thing an intelligent person would consider pursuing as a career or as a sport.

The bill will establish the Professional Boxing and Combat Sports Board as a successor to the previous board, which effectively used the terminology of martial arts. It will combine the registration of boxers and kickboxers, and to that extent provides a saving of $15 a year over several years to eight people who will have to pursue only one registration rather than two. Thirdly, it provides an immunity to the board from certain legal actions.

Somewhat obscurely, as has been mentioned by previous speakers in the debate, the legislation arises from the national competition policy review. Effectively, its concern seems to have been that some contestants in combat sports have had to pay for registrations twice and maintain their records and registrations as separate for either kickboxing or boxing. That covers the eight people who would benefit from the change in the legislation.

In the second-reading speech the minister stated that the primary purposes of the act are to protect the health and safety of contestants and people who are effectively involved in professional boxing and kickboxing.

Interestingly, a distinction has been drawn in the legislation between martial arts and combat sports. The legislation seeks to establish that not all martial arts are involved in combat, and in direct body contact. Indeed sports such as tae kwon do and karate might have been considered combat sports in the past but are recognised as sports with different elements to their scoring, to the nature of the contest, to the skills they bring to bear, and to their disciplines, compared with the objectives of kickboxing and boxing, which are quite different. In the second-reading speech the minister states:

> The Professional Boxing and Martial Arts (Amendment) Bill reinforces and supports sport and recreation's contribution to Victoria's social development and economic prosperity —

Hon. Bill Forwood — Who wrote that?

Hon. B. N. ATKINSON — Obviously one of the minister's staff —

> by providing an effective and efficient regulatory structure for the professional boxing and combat sports industry.

It is absolute nonsense to suggest the legislation will advance the social development of Victoria, let alone its economic prosperity. What is boxing all about? The legislation seems to be carefully tiptoeing around the edges and not really addressing the crunch issue, which is that boxing ought not to have a place in sporting activities today in this state. We should be dissuading young people from entering boxing and encouraging them to take up alternatives to boxing — other sports that are far better for them.

A number of names have been invoked during the debate, including Muhammad Ali who is often mentioned as a sportsman people admire. I do not admire Muhammad Ali and never have. I pity Muhammad Ali. He is one of the saddest people in sport. He is one of the most wretched people in sport because effectively his contribution as a sportsman has been poor. There is nothing to admire in Muhammad Ali. There is nothing to admire in anybody who for obscene amounts of money bashes somebody up in a contest and who tries to damage their opponent and put them in hospital.

I admire many sportsmen, but I cannot admire any boxers for the contribution they make to their sport. Indeed, one of the saddest things about the sport of boxing — honourable members should remember that the second-reading speech said the bill would advance the social development of Victoria — is that if you analyse the world champions in boxing, you find they have effectively taken up the sport as a ticket out of the ghettos. People who come from ethnic minorities, slum areas and areas where life opportunities are almost

zilch, sadly turn to boxing as the way out of their unfortunate lives.

As mentioned during the debate, Filipino boxers were brought to Australia as fodder to provide entertainment and gambling opportunities in contests where they were mismatched. I know the medical regime and regulatory situation that exist today are quite different to the times spoken of earlier in the debate, and in the context of my remarks now, but nonetheless those boxers were bought here simply as fodder for the entertainment of other people who knew they were mismatched and would have no opportunity of winning their bouts. It was simply to promote a contest that usually involved gaming.

There have been Mexican, Aborigine and black American champions. When you analyse where those people came from, you find they came from the ghettos or from difficult positions in their societies, and this was their ticket out. Rather than trying to glorify boxing as a sport and continuing this ticket out of the ghettos, we should be looking at opportunities to promote other sports. We should be encouraging young children particularly to pursue opportunities in other areas, to use their skills, courage and desire to escape their socially damaged lives and to pursue a better result in life.

Boxing is not the way. Even today, with all its regulation, boxing still involves exploitation, gambling and drug taking, and has a criminal element associated with it.

I have met some of the people who were spoken of gloriously in the days of *TV Ringside*. Many of them have ended up as bouncers at various venues around town, and sadder people you would never meet. They were people for whom everybody used to clap and stamp their feet and say, 'Hey, this is terrific. What a fantastic fighter!'. Look at them just two, three, four or five years on, when many are battling alcoholism, drugs, depression or lifelong injuries, and leading very sad lives. We ought not to be looking to perpetuate that trend in our approach to this bill.

I am also concerned about the possibility of women's boxing contests entering Victoria. On previous occasions when I have sought to address that issue I have been assured, in particular by former sports minister Tom Reynolds, that it could not happen in Victoria because the Professional Boxing and Martial Arts Board — soon to be known as the Professional Boxing and Combat Sports Board — would simply not issue a licence for a fight involving women contestants. It is interesting that only New South Wales legislation explicitly prohibits women's boxing. Victoria ought to be going further by having a very clear policy about women's boxing, preferably in the form of legislation, and if that is not possible at this time then certainly in the form of a statement made by the new board that it will not allow boxing contests involving women.

Boxing is obviously a lot more dangerous for women than it is for men. The concept of men's boxing is that a contestant is supposed to attack the body rather than the head; the problem in women's boxing is that it is almost equally as dangerous to attack the body as it is to attack the head because of the various organs and so forth involved. Women's boxing is a ridiculous sport to entertain in this country, and I am saddened when I see such contests being held in other states. I certainly do not want to see them in Victoria, where we ought to be taking a very explicit position on the issue.

My concern about boxing and kickboxing as distinct from other sports is simply that they are the only sports where the objective of the sport is to damage your opponent. Indeed, there are major benefits if you win on a tko or technical knockout — in other words, when you render your opponent useless and unable to continue the bout — or if you win by a knockout and leave your opponent unconscious. Such a win is considered a good thing in the context of this sport. There is no real enthusiasm for the points that might be accumulated for a range of punching opportunities or for the defence you might establish in a boxing contest; your real objective is to damage your opponent, because that is the way you win.

As a result, we see many people who suffer acute injuries at the time of or subsequent to those bouts as a direct result of their participation in boxing, such as reduced brain or body function later in life, or personality disorders. At this very moment a former Australian world champion boxer, Jeff Harding, is undergoing psychiatric testing as part of a dispute involving an intervention order sought by his ex-wife. He does not believe that his behaviour has been at all untoward as he cannot recall most of the behaviour complained about by his ex-wife, and he has therefore been subjected to psychiatric testing.

Many ex-boxers suffer from personality disorders and other continuing problems, in particular dementia and Parkinson's disease. It is interesting to note that Muhammad Ali now suffers from it — and it is not necessarily a fluke of nature, because the occurrence of Parkinson's disease in ex-boxers is a frequent occurrence.

I appreciate that boxing has had a rich and colourful history, particularly in Australia. I have noted the speeches in another place and in this house about circus tents and country contests; about the illegal contests along the Murray River that almost produced another world champion in the early days of this century; and about *TV Ringside* and some of the contests that have involved recent world champions such as Lionel Rose, Johnny Famechon and so forth.

However, as I said, having met some of the people who participated in those contests, particularly those from *TV Ringside*, all I see is very sad people who are having problems with drugs, depression or alcoholism and whose lives have never recovered from the trauma of a career in a sport that ate them up, spat them out and had absolutely no regard for them, their futures or anything to do with the skills they brought to it. Theirs were not famous careers, they were inglorious and very sad careers. Frankly it is time we moved on and encouraged young people who might otherwise be attracted to boxing and kickboxing to use their skills, strengths, agility and speed in other sports that are far more likely to provide opportunities that will advance their lives rather than place them at major risk of being seriously injured or impaired.

While the bill has been before the Parliament the death of a boxer, Ahmed Popal, occurred in Melbourne, and is likely to involve litigation. It is interesting that his family has had a rethink on their support of boxing. His wife made an impassioned plea on a television show to say that boxing should be banned and that the last thing she ever wants is for her two sons to go into the ring as their father had done — something that prior to his death she had thought was not such a bad thing and had probably encouraged. She has now been forced to confront just how brutal boxing is and how it can destroy families.

Boxing is a sport that has no other objective for a participant than to injure or damage your opponent and to reduce that person's capacity in the ring so that you win the contest. As I said, the real bonus in a boxing contest is not the scoring of points along the way, but the tko or knockout that brings the ultimate prize and certainly brings the crowd to its feet. Mr Popal's death occurred in April, and also in that month a West Australian boxer, Patricia Devellerez, fell into a coma in New Zealand after contesting an amateur bout in Christchurch.

She had to undergo emergency surgery to relieve pressure on her brain and when she collapsed was placed in an induced coma in an effort to try to save her life. She was a top woman boxer in Australia and also somebody who has learnt the hard way that this sport does not bring great rewards in the long term and puts you at enormous personal risk every time you step into the ring.

I know boxing is not the only sport where people die or suffer serious injury or impairment. I know that people die in other sports and that it is possible to be put into a coma as a result of a football or soccer match or a basketball or netball game. I know it is possible to die in each of those sports as well, perhaps through an errant contact or a heart malfunction or such like. People who otherwise look fit and capable of pursuing their sport have had heart attacks or other problems in the context of playing that sport. In football we can look as an example at Neil Sachse, a player who came from South Australia and played with Footscray. He managed about 5 minutes or less of his first game of football before he was made a quadriplegic. It happens, but the object of those sports is not to maim or injure or damage the other person — they are not contact sports in the same context as boxing or kickboxing.

There have obviously been situations in the past where people have been put at serious risk with boxing, perhaps because of a medical condition or because of the class they have been fighting in. There is no doubt that today boxing is better regulated than ever before. I have no doubt that this sport will pursue fairly vigorously its objectives for the safety of contestants, but I do not know that that is enough. It is certainly not enough for me, and I know it is not enough for the Australian Medical Association. Dr Karen Phelps of the AMA points out that what encourages boxing is that people watch it and there is money in it, and yet the sport can cause serious brain injury and result in deafness, Parkinson's disease and dementia. Dr Phelps says that boxing ought to be banned. She has a significant amount of support in the AMA for that — the association is opposed to all forms of boxing and believes it ought to be banned from both Commonwealth and Olympic games, as do I.

The AMA recommends the prohibition of all forms of boxing for people under 18. Although this bill will not allow people under 18 to pursue professional boxing careers, amateurs can be under 18. Females can also participate in the sport — another thing to which the AMA is opposed. The AMA has pointed out that some of the medical practices associated with promoters of the sport and used at bouts leave much to be desired as to immediate responses to trauma and crisis situations where a participant is likely to be injured to such an extent that they may well die in the ring.

Of course there are questions for the Coroner's investigation of Mr Popal's death, which is about to proceed. I understand there is also likely to be litigation as to the equipment that was provided in that contest and how that might have contributed to the death. Obviously that cannot be judged in this place and needs to be examined appropriately by the Coroner, and perhaps subsequently by the courts. Nevertheless, quite apart from that particular bout, the AMA has raised question marks about the provision of medical assistance for boxing contests and the sort of equipment used.

The AMA has pointed out that perhaps using heavier gloves might make boxing less likely to cause long-term serious injuries to participants, because it would slow some of the punching, reduce the impact of some of the punches and give contestants the opportunity to take more defensive measures.

Another issue with boxing to which the AMA has referred on a number of occasions is that some of the rules that apply in the contests do not necessarily apply in sparring sessions, where people are training towards those contests. Certainly there are concerns about some of the medical provisions for attending to boxers who might be injured in sparring contests. More effort ought to be made to support them.

The AMA has concerns about mouthguards. It also has major concerns about the interval between the weigh-in and the actual bout, which it suggests ought to be at least 72 hours. The key reason is that many boxers have to go through a process of sweating to reduce weight rapidly to try to make their weight division and do not have the time to re-hydrate before the start of a gruelling boxing contest. That puts boxers at considerable risk and is something that ought to be considered.

I suppose there are two elements to this issue: one is looking at banning boxing completely, which I would argue for and support, and the other is to consider whether or not the existing controls are sufficient to guarantee the safety of people in the future. As I said, I am attracted to introducing a private member's bill in this house to either ban boxing or introduce increased controls.

I would like some assurance from the minister that the controlling board could be instructed to come out with a policy that women ought not be allowed to box — in other words, to really tighten up on that issue. I would like it not simply to be a given that the board will not issue a licence, but for it to come out and say that no licences will be issued for women, that all forms of competitive boxing will be banned for under-18s and that that will extend to amateur contests.

As the AMA points out the fact that currently there is a review of the safety standards involved in boxing, particularly in the context of point scoring, means there is more opportunity to look at providing a greater number of points for defensive manoeuvres rather than just the offensive and attacking manoeuvres. Certainly measures such as mandatory first aid qualifications for boxing trainers should be required. That is encouraged at the moment but is not required. I understand it is required for trainers involved in kickboxing but is not expected of people who are boxing trainers. They ought to have minimum first aid qualifications.

It would be a forward step if Victoria banned boxing in this state following the 2006 Commonwealth Games. I can understand that people who are pursuing boxing careers with an eye towards the Olympics and the forthcoming Commonwealth Games, particularly those to be held in Melbourne, might reasonably expect they would be allowed to pursue their sport in the intervening period. However, after that I think we ought to be sending a very clear message that in this day and age boxing has no place as a sport in this country and ought to be banned.

Hon. S. M. NGUYEN (Melbourne West) — I join other honourable members in contributing to the debate on the Professional Boxing and Martial Arts (Amendment) Bill. All parties have agreed to support the bill but I have heard different views about its merits. Professional boxing in Victoria and in Australia has to be better managed and controlled to make it a safer sport. I have seen people training in martial arts and taking part in contests to upgrade their level of belts. However, I have never been to a kickboxing or a professional boxing match because I disagree with those sports. I have seen contests on television and on the movies. It is very exciting. People attending the events are screaming, yelling and clapping when a person is knocked over. It is not a healthy sport. It is sad to see someone being killed or knocked out in a contest.

Australians are not major supporters of professional boxing unlike those in the United States of America, Thailand and other countries in Asia. I spent nearly 10 months in Thailand and I know that professional boxing there is like Australian Rules Football in Victoria. Nearly every day there are front-page stories in the major newspapers about professional boxing contests, with the winners being almost heroes. Nearly everywhere you go in Bangkok boxing is one of the main sports. A lot of money is involved in kickboxing

in Thailand. Boxers use their hands, but kickboxers use their hands, arms and legs.

Those sports are totally different from martial arts, which are more to do with skill and self-defence rather than killing your opponent. The referee in martial arts will stop the contest if a person is hurt. Many people, including many women, study martial arts for health and fitness reasons or to protect themselves in case someone attacks them. Martial arts can be a dangerous sport because people can be killed. Victorians enjoy many different sports and do not always enjoy these combat sports. I agree with Mr Atkinson who put a different view about the bill.

The main purposes of the bill are to rename the Professional Boxing and Martial Arts Act as the Professional Boxing and Combat Sports Act; to enable persons registering as contestants under the principal act to compete in both boxing and combat sports; and to provide statutory immunity to members of the Professional Boxing and Martial Arts Board for acts done in good faith. The current act was the result of the amalgamation of the Professional Boxing Control Act and Martial Arts Control Act, which brought all professional contests in the field of boxing and martial arts under the control of one board.

The term 'martial art' is generally regarded as covering a range of activities, including non-contact activities that are not professional for the purposes of the act. The term 'combat sport' has more to do with fighting and includes kickboxing and other emerging full-contact contests that are conducted for commercial gain.

Professional boxing and some combat sports are shown on television and the contestants often fight for large purses. One of the most famous fighters of the past few decades, Mohammed Ali, fought for large purses. Mike Tyson was a great boxer, but he was strong and very violent. It can cause many problems. Young men are encouraged to go into the sport but often it becomes violent. It is not a good example in the community and does not provide a role model for society. Today there are many bad influences in society because of violent movies and violent sport. Also health and safety issues are involved.

The bill provides that a medical practitioner must be in attendance at all professional contests. The doctor must give advice and watch the contest. The board has the power to require doctors to be at the ringside at every fight and the doctor has the responsibility to ensure that the boxer is not killed during the fight. A doctor can overrule a referee to ensure that nobody is badly injured or killed. A registered doctor must examine each contestant no more than 24 hours before each fight and again not more than 24 hours after each fight. The board has the power to require other medical tests to be undertaken where considered necessary to prove the fitness of a professional contestant.

Contestants cannot fight for seven days after a fight of six rounds or less and for 14 days after a fight of seven rounds or more. It is important to ensure that fighters have recovered before they fight again. In the case of a loss by knockout the fighter is not allowed to fight for 30 days. For a second consecutive loss the contestant cannot fight for two months. During that period the fighter can recover before being allowed to fight again.

We must not allow fighters to come from overseas and be involved in too many fights in a short time to earn a lot of money and then return to their countries of origin. If a contestant fails to win in six consecutive fights he or she may not be allowed to become involved in future fights unless he or she can be proved fit to continue. It is important to look after the health of fighters.

We must try to stop commercialisation and the risking of lives. I remember many years ago seeing wrestling on television. Once I went to see a wrestling match, but it was not real wrestling and the match was not strongly supported by the community. That is why the wrestling industry does not exist, is no longer on television and no longer advertised in Melbourne because we do not strongly support the sport. I know many towns in Victoria have tried to organise wrestling matches but the audiences do not turn up to watch them because they prefer to watch something more healthy.

Boxing must be controlled, and everybody who is eligible to be a contestant must obtain a permit. We must do more to ensure nobody is killed. Many people have referred to women boxing, of which I am not in favour. In the newspaper not so long ago there was reference to a fight between a male and female, and the woman won. I do not think it is a good idea to have women fighting against men. It is bad enough women fighting women, but not a man fighting a woman.

Earlier this year, members of the Australian community, especially the Victorian community, were very concerned when a boxer died after being injured in a fight organised at the Collingwood town hall. Many people wrote to newspapers and to members of Parliament expressing their views, one of which is that there should be a total ban on the sport. It is not a sport enjoyed by a large number of people. In future I hope the sport will not be strongly supported by members of the Australian community. The only way to stop it

would be if there were no interest in it. The only thing that would stop the people involved in promoting the sport, such as the major sponsors and organisers, would be if they had no audience. I hope one day Australians will wake up and indicate that they will not watch the sport anymore.

In conclusion, I indicate my support for the bill because it will help to control the sport and will ensure that health and safety are at the top of the agenda for the sport and that contests are monitored by the board. A medical practitioner will be present at any fight to supervise the sport and ensure that health and safety are the no. 1 consideration during a fight.

Motion agreed to.

Read second time.

Third reading

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

That this bill be now read a third time.

I thank honourable members for their frank expression of diverse views on the issues, particularly those surrounding boxing. I recognise the contentious nature of professional boxing and combat sports. I thank honourable members for the level of debate in this place. I read with interest the contributions to the debate by honourable members in the other house. Today's debate was far more diverse and deeper and brought to the house a broad range of views, not necessarily along party lines. The contributions certainly raised the level of debate and highlighted the debate in the community.

Respective governments in this state have gone to great lengths, through the leadership of Sport and Recreation Victoria and the Boxing and Martial Arts Control Board, to regulate the sports of boxing and what was martial arts — now known as combat sports — to reduce harm and assist in protecting those who are prepared to entertain risk and to provide their risk as entertainment.

I look forward to the outcomes of the working group established with the Sport and Recreation Ministers Council to develop a national framework for boxing and combat sports. I look forward also to announcing additional safeguards as those recommendations come to me from the Professional Boxing and Combat Sports Board, including those relating to women's professional boxing. Again I thank honourable members for their contributions and particularly for the level of debate in the house.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

WHISTLEBLOWERS PROTECTION BILL

Second reading

Debate resumed from 1 May; motion of Hon. M. R. THOMSON (Minister for Small Business).

Hon. C. A. FURLETTI (Templestowe) — I am answering the call to contribute to the second-reading debate on the very detailed and relatively complex Whistleblowers Protection Bill, which has a long history. It was read a second time in the other place first on 28 August last year, which is an extraordinarily long time ago, and it has laid over from then until early April, which was some nine months. It was not clear why that was so.

I am aware that interested parties have been discussing at some length the provisions of the bill and that considerable negotiations have taken place on the content of certain parts of the bill. It was only on the second reading of the bill in the other place that the Liberal opposition — indeed, as I understand it, the opposition parties — were made aware of some very substantial amendments that changed the content of the bill. While the Liberal opposition would have been in a position to support or at least not oppose the bill had it been presented to this house in the form it was originally tabled — that is, at its first reading — given the form of the bill sent to this house from the Assembly, the opposition opposes parts of the bill and I give notice that during the committee stage the opposition will be moving amendments to the bill.

As indicated, the purposes of the bill are set out in clause 1. It is directed predominantly towards protecting persons from reprisal or retaliation if they allege or divulge improper conduct on the part of a public body or public officer conducted in the course of activities as a public body or public officer and subject to those disclosures being found by the Ombudsman to be public interest disclosures. If honourable members find that somewhat confusing, it is perfectly understandable because the bill contains considerable areas of convolution and cross-referencing and lacks accurate definitional assistance.

Hon. R. M. Hallam — You mean that the confusion is understandable, not the bill.

Hon. C. A. FURLETTI — Yes, that is what I meant. As the Honourable Wendy Smith has indicated, it is another sloppily drafted bill presented by the government. As I indicated in my opening, the bill has been tabled for nine months. I am sure if that time had been spent by the government in properly drafting and presenting the bill it would not be experiencing the difficulty it is having today in seeking support from the opposition.

The objects of the bill are fairly brief. The third purpose provides for matters disclosed to be properly investigated and dealt with. I believe that represents the bulk of the bill because the largest part of it relates to the manner in which investigations are to be conducted.

I turn to explain the operation of the bill by reference to its parts. Part 3 contains the core purpose, which is the protection of whistleblowers. I will return to the issue of the difficulty with the concept of a whistleblower, but I can understand people using the bill would have difficulty categorising and understanding who a whistleblower is and in what context the term is used. Part 3 seeks to define what a protected disclosure is and refers to part 2, which is entitled 'Disclosures of improper conduct'. However, when one seeks to find a definition of a protected disclosure, one finds it is defined only by reference to mention given to it in clause 12. Seeking to identify the meaning of a great deal of the terminology in the bill is like setting a dog chasing its tail.

Part 4 is entitled 'Determination of public interest disclosures'. As I indicated, there is a protected disclosure and then a public interest disclosure, which in context means that one needs, firstly, to identify what a public interest disclosure is. If it is a public interest disclosure then it is a protected disclosure, and then certain things follow. Nowhere in the bill is a public interest disclosure appropriately identified to facilitate an understanding by those who are using the bill and assist them to take the proper course, whether it be advising or taking steps to ensure compliance. In other words, it does not encompass the areas I have often mentioned in this house — that is, making sure that as legislators we prepare and pass legislation that is clear and easy for the people it affects to understand and work with.

Part 5 refers to the investigation of public interest disclosure by the Ombudsman. The fundamental operation of the bill requires the Ombudsman, in the final instance, to be the investigating officer of any protected disclosures that are of public interest. Part 5 sets out in strict terms the procedural steps that need to be followed in the investigation of those not-defined public interest disclosures. It sets out the functions of the Ombudsman, which are substantially similar to those contained in the Ombudsman Act but which contain a couple of extensions. The investigation process is set out in considerable detail, and it provides some assistance as to how evidence is to be taken. I say in passing that evidence can be taken in any manner the Ombudsman wishes, so it is fairly broad.

Another area of concern is that there is no automatic right of legal representation in the investigation by the Ombudsman — a notion I always find difficult — with the Ombudsman having a discretion to allow legal representation. I have concerns about matters of parliamentary privilege, self-incrimination and privacy that arise from the investigation procedures outlined in that part.

Part 6 relates to the investigation of public interest disclosures by public bodies. The purpose of part 6 is that if a complaint is made to the public body then it is for the public body to conduct an investigation in the first instance. However, I believe I am not being unkind in saying that given the procedures outlined in the bill that would appear to be a waste of time, because if the whistleblower is dissatisfied the matter can be referred to the Ombudsman, and away it goes again. That may or may not be a good thing.

However, if the person or body the subject of a complaint were to go through this type of ongoing investigation, I suspect it would be a fairly unpleasant and difficult time for them. If they took matters so seriously as to engage professional assistance, whether legal or otherwise, what immediately comes to mind is the old double-jeopardy or two-bites-of-the-cherry argument. Although whistleblowing can be effective — I will refer to the various forms that can take place — it is also fair to say that in a number of instances whistleblowing can involve a degree of vindictiveness, or perhaps malice, for reasons that may not be obvious in the first instance.

The public body is to conduct its own investigation. There is a close liaison between it and the Ombudsman's office, and the Ombudsman is obliged to prepare and publish guidelines for the procedures to be used by public bodies to conduct those investigations. I do not have a great deal of difficulty with that concept; it is a course of action that currently takes place between the Ombudsman and the public bodies under the Ombudsman Act, to which I will subsequently refer. A similar procedure is in place with regard to the investigation of public interest disclosures referred to the Chief Commissioner of Police. If somebody complains against a member of the police force they

can in the first instance complain to the chief commissioner. The Ombudsman is the common thread through the investigations referred to in parts 6 and 7, and that arises because of the operation of the Ombudsman Act and the Police Regulation Act.

The Ombudsman Act applies to public bodies and the like, while the Police Regulation Act applies to complaints against the police.

I record my thanks to the Ombudsman, Dr Perry, for the time he so generously conceded me in expressing his views on the bill and how his office was functioning. He was willing to explain that he had a detailed involvement in the preparation of the bill and was concerned that unless there was a close similarity between the Ombudsman Act, the Police Regulation Act and this bill, the possibility would exist that three pieces of legislation would control and affect very similar types of situations and that could give rise to more confusion than it is worth. He was reasonably pleased that this bill seems to substantially replicate the provisions of the Ombudsman Act and the Police Regulation Act.

From that perspective the opposition has no difficulty. That is why in the first instance, had part 8 of the bill not been the subject of house amendments on the second reading, the opposition could well have supported the government's proposals. That leads me to part 8, the subject of the opposition's amendments.

The original bill as introduced in the other place provided for the investigation of disclosures about members of Parliament to take place by means of a complaint to the Speaker of the Legislative Assembly or to the President of the Legislative Council, depending upon which member about whom a disclosure was being made. It was then for the Speaker or the President respectively to consider the complaint, to analyse whether it was of a nature to have the Whistleblowers Protection Act apply, and to determine as an individual — I am happy to say that our Presiding Officers are totally unbiased, honest and acceptable individuals, whose integrity I would not doubt — whether any further action should be taken by referring the complaint to the Ombudsman. At the very last moment the government — —

Hon. R. M. Hallam — Literally —

Hon. C. A. FURLETTI — Literally, at the last moment the government changed the process and interposed a privileges committee between the Presiding Officers and the Ombudsman. As I said, I think the view of all honourable members is that the Presiding Officers are unbiased, totally independent and beyond reproach in terms of integrity. I will restrict my comments to the Privileges Committee of the Legislative Council, but I will speak generally about privileges committees.

I regret to say that unfortunately I am unable to hold the Privileges Committee in the same regard as I hold Presiding Officers. All honourable members are aware of the value of and good work done by parliamentary committees, but a privileges committee is set up for a particular reason. In the five years or so that I have had the honour of being a member of this place we have been fortunate to have not needed to establish a privileges committee. However, in the other place there have been a number of efforts to do so, but because of the numbers and the government control there was no possibility of even getting to first base with having a complaint approved.

The Minister for Post Compulsory Education, Training and Employment and the Minister for Education were both challenged and a proposal was put that their conduct be referred to the Privileges Committee, but the government voted down the opposition motion. That is a simple example of how a matter becomes politicised. Clearly the opposition was more than happy to accept the role that was given to the Presiding — —

Hon. Jenny Mikakos — You are on the Privileges Committee!

Hon. C. A. FURLETTI — I am coming to that.

Hon. Jenny Mikakos — So you are not impartial?

Hon. C. A. FURLETTI — I am coming to that; thank you very much. You were not in your seat, either.

The Presiding Officers had a serious task imposed on them. It is significant to all of us that if a complaint is laid against a member of Parliament that complaint is dealt with. That is in the interests of transparency, openness of government, and all those things the Labor government so strongly stands for. That is the rhetoric we heard so much of before the 1999 election and which I am sure convinced the Independents to side with the government. Openness and transparency are wonderful things — but we do not see much of it in practice.

In a further undermining of those strong mores that were discussed, members of Parliament who have taken the role of being members of the Privileges Committee are put in a position of absolute conflict. Being a member of the Privileges Committee of this house I would have great difficulty trying to decide whether I

should honour the responsibility I have to this house in being totally impartial or my commitment to my party and my colleagues and my opposition values if a government member were before the committee.

Hon. Jenny Mikakos interjected.

Hon. C. A. FURLETTI — It is an honour for me. It would be an honour to be on that committee, but it would also present a serious conflict and would cause every member a great deal of concern — at least I hope it would.

Hon. Jenny Mikakos — But it is not the final arbiter.

Hon. C. A. FURLETTI — Indeed it is the final arbiter. In deciding whether this matter should go further and should be investigated by the Ombudsman, it is the final arbiter. I find it absolutely amazing that Ms Mikakos says the Privileges Committee is not the final arbiter. It is all right to be biased and for it to be on party lines — because the committee is not the final arbiter! What nonsense! It is supposed to be an impartial committee.

I find it amazing that the government has seen fit to change a bill that contained an acceptable, clearly unbiased and independent process into one with a politicised process which I suspect would be of great significance to anybody who had to go through it. Amendments will be moved to part 8 of the bill, and consequential amendments will follow because of the removal of the role of the Privileges Committee in investigations of disclosures about members of Parliament.

Part 9 relates to the Ombudsman's obligations to report, and part 10 contains a few general provisions which I will take the house through because they are tucked away at the back. Part 10 provides for the creation of offences for persons who make false disclosures and for the protection of the Ombudsman's office in respect of its investigations; and there is an exemption of the Ombudsman's office from the Freedom of Information Act, which refers only to the Ombudsman's investigative capacity and not its administrative functions.

Lo and behold, at clause 110 there is an amendment to vary section 85 of the Constitution Act. Part 11 amends a number of related acts.

That was a quick tour through what is a particularly complex bill. As I said during the course of that journey, the Liberal opposition generally accepts the notion and the intent of the bill but has grave concerns about part 8. The opposition is not alone in those concerns. I have received correspondence from two of the three municipalities within my electorate: from the mayor of Manningham and also from the City of Banyule. Both municipalities are members of the Municipal Association of Victoria, which has made submissions to the government. All indicate grave concerns over the impact of the legislation on municipalities.

Apart from that, there are specific matters of concern. They raise the problem of definitions, particularly what constitutes improper conduct and corrupt conduct. I have also indicated concerns about those definitions and public interest disclosures. Discussion of matters of public interest allows for some fairly broad-ranging areas to be covered. Of course, whether any disclosure is or is not in the public interest allows for a great breadth of interpretation. That is why it is absolutely essential that the person conducting the determination of what is and what is not a public interest disclosure must be pristine in terms of independence. Hence the concern of the opposition about the process proposed at the last moment by the government.

Another area of grave concern to the Liberal opposition is the interference of the legislation with the longstanding statutory and common-law rights which honourable members enjoy in this place — that of parliamentary privilege. The bill is not clear on whether the elements of parliamentary privilege, which have grown through the decades, are to override the provisions of the bill. As part of its amendments the opposition will propose a section to clarify and put beyond doubt the fact that the operation of the bill will not in any way impede or interfere with and will not derogate:

> … from the privileges, immunities and powers held, possessed or enjoyed by custom, statute or other law or otherwise of —
>
> (a) the Parliament; and
>
> (b) each House of Parliament; and
>
> (c) the President of the Legislative Council; and
>
> (d) the Speaker of the Legislative Assembly; and
>
> (e) the members and Committees of each House of Parliament; and
>
> (f) the joint Committees of the Parliament.

That will put beyond any doubt and clarify totally the position and the relationship between the disclosure provisions and the investigative provisions of the

Whistleblowers Protection Bill and the longstanding powers of the house.

I comment briefly on the freedom of information powers of the Ombudsman in this instance. It was brought to my attention that the Ombudsman has had exemption for many years — and it was always the intention that the Ombudsman be exempt — from the Freedom of Information Act. The Ombudsman drew to my attention that in 1992, when the public sector management legislation was introduced, the Ombudsman's office was inadvertently and unintentionally converted into an agency. Hence it was caught under the Freedom of Information Act. Before that there were freedom of information regulations that exempted certain bodies.

In reinforcing the comment I made earlier about the privileges of this place, and the exemptions that should apply to this place, it is interesting to note that the other bodies that have exemptions from freedom of information legislation, and who of course have exemptions from the legislation before us, are the Auditor-General, the Director of Public Prosecutions, the Legal Ombudsman, the Ombudsman, the Public Advocate and the Solicitor-General. We acknowledge there are certain bodies that should be exempt from this type of legislation.

One could have mounted a fairly strong argument that members of Parliament should have been exempted from this sort of legislation. One asks why that was not the case. Indeed, at one stage during the course of the negotiations it appeared that the government realised it had made a fairly serious error and may have grasped on the opposition's concerns in the lower house to withdraw the bill. At about that time the Premier is reported in a newspaper as having threatened to withdraw the bill and not proceed with it — not so much, I suspect, because of the opposition to it by the parliamentary Liberal Party, but probably because the government realised what a mess it had made of it.

The Liberal Party's concerns are to some extent definitional. I refer honourable members who may have an interest in this area to a good article by a Ms Irena Blonder, acting manager of the Centre for Applied Philosophy and Public Ethics, writing a PhD on whistleblowing. Her article appears in volume 9 no. 1 of *Res Publica* of last year. It is a very detailed article on whistleblowing and whether it serves the public interest, a subject relevant to the bill before us.

In the article Ms Blonder seeks to analyse the topic under the heading 'What is whistleblowing?'. The sorts of conduct that according to her thesis qualify as whistleblowing are worthy of recording. She states:

> In the first instance the term is used to refer to unauthorised internal reporting or external disclosure of information about non-trivial wrongdoing in an organisation. Secondly, it is also applied to unauthorised disclosures, typically made in scientific fields, where no wrongdoing is intended, but a professional disagreement exists regarding questions of harm to the public, which might result from the controversial activity. The disclosure is unauthorised in that, in making it, the whistleblower steps outside the official channels of communication. If it is made internally, the usual reporting route will be ignored and the disclosure made to a person not directly responsible for the issue in question.

The article goes on to state:

> In an external disclosure, information is provided to an audience outside the organisation, usually through the media. The content of the disclosure is important: the organisation in question does not wish to have it revealed because it is about wrongdoing: unethical, professionally controversial or illegal activity, damaging to the organisation or to those associated with it.

That provides a very helpful understanding of the different shades of whistleblowing to assist us in understanding what the bill is seeking to do. The article continues:

> An interesting variant of external disclosure is one made outside the organisation but to another official body. A report might be made to the Ombudsman, to —

believe it or not —

> a member of Parliament or a review body. It is obviously external to the organisation, but without the sensationalism attendant upon a public disclosure made through the media.

That is what we are dealing with today. It further states:

> The question arises, if whistleblowing is defined as public interest disclosure, how is the public interest to be understood?

That is a fundamental question, particularly given the manner in which the bill before us is currently presented. Ms Blonder goes on to talk about how the public interest is served by whistleblowing. I recommend this very good thesis to honourable members. I reserve the right to make further comments in committee about some of the provisions that are of concern to the parliamentary Liberal Party.

I thank the Honourable Roger Hallam for providing me with a copy of answers to some of those concerns provided to him by the government. Some of those answers have been presented in good spirit, and for that we are grateful; I suspect that some of them are not quite so bona fide. Nevertheless, I will raise some of those concerns in the committee stage.

The bill leaves a lot to be desired, and the Liberal opposition hopes that on review the government will accept the amendments it proposes.

Hon. R. M. HALLAM (Western) — The National Party's reasoned response to the Whistleblowers Protection Bill is that it should be not opposed. That, of itself, raises a whole range of immediate questions. I know some would say to not oppose a bill is a non-response and something of a cop-out — that is, it is not possible to be half-supportive of a bill of this nature, and that we ought to have the ticker or whatever else it takes to either support the bill or oppose it outright.

I would normally have some sympathy for that criticism; however, I suggest to the chamber that this bill is a bit different because on the one hand its objectives are really quite supportable — in fact, I do not think anybody in this chamber would deny that its objectives are not only supportable but also commendable and even laudable.

Indeed, when the Attorney-General introduced the bill in the other place he made the point that it was essentially designed to encourage and facilitate disclosures of improper conduct by public officers and public bodies, to protect persons making those disclosures from reprisal and to provide for the matters disclosed to be properly investigated and dealt with. Nobody would argue with those objectives. Nobody would claim that it is inappropriate to be providing protection for a person who is genuine in blowing the whistle on inappropriate action and that that person or those persons should not be protected.

However, the problem that National Party members have is that the question that came to our minds was not about the objectives at all but rather about whether the bill delivers on those objectives and, more importantly, if it does deliver on those objectives, what cost will be involved.

As the Honourable Carlo Furletti pointed out, the bill raises a whole range of incredibly complex and subjective concepts. I have suggested that we are really grappling with a potential barristers' banquet. National Party members are concerned about whether other important existing legal concepts will be eroded and, like the Honourable Carlo Furletti, I will mention two in particular: the concept of privilege and the issue of freedom of information.

Perhaps even more importantly, we are concerned about the rights of those against whom a whistleblower's action may be directed. I note that the second-reading speech introduced into the chamber by the Minister for Small Business acknowledges that we have in front of us a bill that attempts a very delicate balance. This is not a one-way street; we have some very subtle and complex issues to contend with, and the National Party is not entirely convinced.

I am happy to put on the record that the National Party would not have initiated this bill. National Party members see the bill being driven more by the notion of what appeared to be a good idea at the time than anything else. We think the bill says more about the luxury of opposition which spawned it, which is distinctly different from the responsibility and scrutiny of government from which it must be delivered. It says more about the extent to which Labor has been hoist on its own petard of accountability, openness and transparency — the platitudes we heard spoken so often from the comfort of opposition.

The National Party thinks the bill is more about public relations than about public administration. We expect it will come back again and again to this chamber to remedy the many unanswered questions that are already beginning to emerge; we think the government has a tiger by the tail and we think the bill is likely to divert the resources and attention not just of the Parliament and the executive government but also of councils who are also caught up in the new net. This bill is more about the shadow than the substance.

But, for all that, we acknowledge a number of facts: the first is that Labor promised this legislation prior to the election. I know my colleague the Honourable Bill Baxter quails every time I mention the issue of mandate, but to the extent that Labor talked before the election about introducing this legislation it can claim to have a mandate for the bill before the house.

Whenever this issue comes up I hasten to assure the house that from the National Party's point of view a mandate is more a debating point than some sort of carte blanche authority. It is a two-way street, or perhaps more appropriately, a two-edged sword.

If in fact the concept of mandate is to be trotted out every time as some sort of justification, in the same context I want to know: where is the promised royal commission into the casino tendering process? That was also promised. Where is the legislation restricting political donations from the gaming operators? That was a specific promise from the same party in opposition. Where is the reduced reliance on the gambling dollar that we heard so much about when Labor was on the opposition side of the chamber? It sounds to me as if those quite specific promises — and there were many others — turned out to be disposable. I

suspect Labor would hope they are biodegradable and therefore will quietly disappear with the passage of time.

The National Party is not won over by the mandate theory, but we acknowledge that Labor did undertake to introduce this bill and that therefore there is room to argue not only that it should be allowed to bring in such legislation but that it might be required to deliver rather than be frustrated in that delivery. So we acknowledge the issue of mandate in this debate.

The National Party also acknowledges that there was wide consultation in respect of this bill and its formulation. Again, it is not persuaded to support the bill on that ground alone, but it does acknowledge that the community was given the opportunity to participate in the framing of the bill now before the house. Indeed, I acknowledge that two quite detailed discussion papers were released publicly to facilitate participation in a wide-ranging debate. To that extent no-one can say the government sneaked up on them with this general idea. I might say as an aside that we believe the government conducted something of an ambush with the amendments on the role of the Presiding Officers, but we have no argument about the notice we were given on the general concept and the chance for us to test public reaction.

I might say also as an aside that when the National Party tested that public reaction most of what it got by way of response could be described as a yawn. I also acknowledge that where an action was initiated under this proposed legislation it would go to the Ombudsman and would trigger a standard investigatory process. So it would go to an officer that we know and respect; it would employ a process with which, by and large, we are familiar. On that basis I might say it holds no terrors for us. Indeed, we are persuaded that the bill is quite consistent with existing legislation relating to the Ombudsman and in fact might well augment that officer's authority and powers.

The National Party also wants to acknowledge — and it does so seriously — that openness, honesty, transparency and accountability, all of which are said to be involved in the objects of the bill, are important as aims of any government. Of course we would acknowledge that to be so. Indeed, we say that we have given testimony to that fact while demonstrating it in government. I know there was a lot of accusation and innuendo, particularly during the last days of the Kennett government, but I make the point now, as I have done in the past, that we have not seen any evidence whatsoever of dishonesty or cover-up.

Again I return to the classic example of the casino tendering process. I recall that Labor in opposition convinced the press and a fair slab of the Victorian community that that process was crook and that it was in fact mateship rather than the merit of the bids that determined the outcome. I well remember that it was none other than the Premier in waiting who promised there would be a royal commission into that tendering process. What has happened since then? Absolutely nothing — we have not heard a whimper. When I had the good fortune to become the minister directly responsible — admittedly after the tendering process had been completed — I had the opportunity to examine that process. I came to this chamber and reported that I thought, in fact I was totally convinced, that the process was pristine — that was the word I used. I suggest that position has now been totally vindicated by Labor's embarrassing backdown, despite its attempts to drum up some question marks in that context when it came to government.

Again I point to the former coalition government's track record, particularly the introduction of accrual accounting. I say to the chamber again, as I have done in the past, that I cannot think of a single policy initiative that would do more to guarantee accountability and openness in government than the introduction of accrual accounting. I am delighted to the extent that the introduction of accrual accounting will see no more of the manipulation, camouflage and deferral of expenditure that became such a hallmark of the previous Labor administration.

We have demonstrated our bona fides in the most practical way — that is, on the government benches. Of course we support honesty and openness as an objective and a test for the government. Of course we want the public to have confidence in the administration of the public sector. Of course we want to be aware that someone receiving notice of wrongdoing is encouraged to report that wrongdoing. Of course we would want any fear of reprisal to be overcome so that that fear itself was not seen to be an acceptable basis for condoning wrongdoing. Of course we need a fair and robust framework to investigate any such complaints. Of course we would support the promotion of high ethical standards across the public sector. And of course we acknowledge that all of these issues impact upon the broader objective of protecting the public interest.

The National Party's concerns are not about the stated objectives of the bill or the commentary in the second-reading speech. They are about the effectiveness of the methodology that is before us. Like the Honourable Carlo Furletti, I want to go to some of those concerns. I turn firstly to what I have described as

the barristers' banquet. I said that our major concern went to the issue of the complexity and subjectivity of the concepts involved in this legislation and the extent to which they invite legal challenge and interpretation.

I do no more than rely on the second-reading speech to demonstrate just how much of a minefield we are getting involved with here. I refer the chamber to that part of the second-reading speech that is headed 'Main features of the bill', where we see the issue of public interest disclosures is nominated as a main feature and find some commentary about what constitutes a public interest disclosure. We learn that:

> The bill allows disclosures to be made by any member of the community —

so we are not only talking about any restrictions whatsoever: anybody out there in the community is entitled to use the benefits of this proposed legislation —

> who believes on reasonable grounds —

there is the first subjective test —

> that a public body or public officer has engaged in or is about to engage in —

there is the second subjective test —

> improper conduct … or;
>
> detrimental action …

They are two more very subjective concepts. At least in those cases we have the benefit of some attempt at a definition or explanation. Honourable members learnt from the bill that improper conduct comprises either corrupt conduct, which is defined as requiring behaviour to be of such seriousness as to constitute a crime or to terminate the employment of a public officer, both of which are subjective tests; or the other leg is that it might comprise substantial mismanagement of public resources, substantial risk to public health or substantial risk to the environment, all of which are also subjective tests.

If honourable members are not satisfied with that, detrimental action is defined as action causing injury — that may not be too difficult; loss or damage — that will cause the burning of midnight oil; or intimidation or harassment, discrimination, disadvantage or adverse treatment in a person's employment. Let us not pretend we have fixed the target in the first instance. Honourable members should expect that this will become the lawyers' banquet of which I spoke earlier. I and my colleagues in the National Party believe the concept of whistleblower will develop a legal life of its own and may become the subject of further specialisation in the practice of law. It is not a simple concept.

Against that background, and in an effort to assist the Parliament, I framed some specific questions that I intended to pursue. The questions were legitimate given the restricted debate in the other place. I will not go to the background of what happened there because that has been canvassed by my colleague the Honourable Carlo Furletti, but it is a fact of life that the bill languished on the notice paper in the other place for several months. The National Party presumed the government had had second thoughts and would not proceed with the bill and was somewhat bemused to learn it was whistled into the other place late at night without any warning, complete with fundamental amendments that were handed to the opposition parties at that time.

Hon. E. G. Stoney — Not good enough.

Hon. R. M. HALLAM — It is not good enough! If this house is to conduct its role as a house of review it is appropriate that the opposition parties here seek answers to those basic questions. It was most unsatisfactory that the bill was rammed through the other place, particularly with amendments introduced at the eleventh hour that go to fundamental concepts. I will have more to say about that during the committee stage.

As a means of aiding the debate, I supplied questions to the Minister for Small Business. I am happy to put on the record that the minister treated the questions seriously. I appreciate that, because it has not always been the case, certainly with a couple of recent examples. I acknowledge that the minister has responded in the spirit in which the questions were offered. I also acknowledge that at least some of the responses resolved issues and removed the question marks. I am delighted that we have been able to find a practical way through these problems. I commend the minister for her response. I again make the point that this process illustrates that the Legislative Council can work as a house of review.

I turn to those issues in general terms, because given that the government has responded in a formal sense it is important to read the responses into the record. The responses will have exactly the same effect as would have emerged through a reasonable debate in the other place.

The first question I posed was: why does the bill not include a definition of 'whistleblower'? It is a new legal

concept that is being deliberately introduced into the legal lexicon yet there is no definition in the bill. The minister attempted to comment on what it involved in the second-reading speech but there is no definition. I thought there should be a definition in the bill, because it is not hard to visualise that where we may be playing for big stakes the outcome of the game may be determined by a challenge as to what constitutes a whistleblower. I thank the minister for her response and I want to read her response into the record and then I will refer to it briefly. The government's response is:

> The bill does not define the term 'whistleblower' because this is a general term.

I could pause and make a comment, but I will resist the temptation. The response continues:

> A whistleblower is a person who makes an allegation or divulges information about wrongdoing on the part of another person or organisation. It is used in the bill title as it is a readily understood term.

Hon. W. R. Baxter — Really!

Hon. R. M. HALLAM — I hope that makes everyone feel happy. The response continues:

> A person may be a whistleblower but unless they make a complaint within the framework of the bill they will not be protected.
>
> A whistleblower for the purposes of the bill is a person who makes a disclosure about public sector wrongdoing, which meets the definition of improper conduct. The disclosure must be made to the appropriate person and in accordance with the prescribed procedure.

That is not a bad definition. It is a great help, but all it does is reinforce my concern about why it was not in the bill in the first instance. In any event, I am not persuaded by the notion that 'whistleblower' is a readily understood term. However, having the comments now offered by the government as part of the debate as dicta assists the point I was trying to make and I am delighted the government saw fit to respond in this way.

The next question I posed related to a comment in the second-reading speech that:

> Disclosures … can be made about conduct that occurred prior to the commencement of the act.

That is a statement of fact, and in an attempt to gain clarification, my question was: how long prior to the commencement of the act? What is to stop an aggrieved person going back 20 years and dredging up all the old issues and driving the process insane. There should not be any mistake about this: each of us in this chamber would be well aware of people who would certainly qualify as zealots in these circumstances and who would be likely to use this system in a way that was not intended in the first place.

The question became: does the statute of limitations apply to this legislation? It is certainly not clear on my reading of the bill. The explanation from the government was about half handy. It says, in direct response:

> The Limitation of Actions Act 1958 will apply to conduct which occurred prior to the commencement of the act.

That is very clear. It goes on to say:

> A person can only take an action in the courts if it relates to conduct which occurred after the commencement of the Whistleblowers Protection Bill. For example, if a person suffers reprisals as a result of making a protected disclosure.
>
> The bill does enable a person complaining about past conduct. This provision is qualified by clause 40. Clause 40 provides that if a person knew about the disclosed matter for more than 12 months and fails to give a satisfactory explanation for the delay in making the disclosure the Ombudsman can choose not to investigate.

I shall explain why that is not that much protection. Further quoting from the government's response:

> The reason why the bill allows people to make complaints about past conduct is that in the past there was no protection given to people who feared the consequences of making a complaint.
>
> People may have not complained previously due to fear of losing their job, harassment or intimidation.

That does not provide any comfort. I was trying to find whether there was to be a restriction on the term by which the actions could be backdated, and apparently we are to be consoled by the notion that the Ombudsman does not have to take any action unless he or she is satisfied that there is a decent explanation as to why the delay occurred.

When the government gives its response it reminds us that the reason the bill allows people to make complaints about the past is because there was no protection for them. I can presume that, rest assured, everybody who feels aggrieved under that clause would say to the Ombudsman, 'The only reason we didn't report the incident was that we were afraid of reprisal'. How does that stop something going back 20 years, and how does it stop the zealot regurgitating a pet beef that goes back a lifetime?

My concern remains, and I seek from the government something better than a suggestion that the Ombudsman will knock back an old claim simply because of the notion that there has to be a decent

explanation why it has taken more than 12 months, because if someone feels aggrieved, rest assured, they will say, 'We didn't raise it in the past because we were afraid of losing our jobs or there being some sort of retribution'. The government should give a better explanation about the date from which the legislation takes practical effect.

The next issue that I raised comes directly from comments offered in the second-reading speech where we learn about the protection against false allegations. I note that clause 106 has a substantial penalty involved of up to a maximum of two years imprisonment or $240 000. As we were reminded by the government in respect of the previous question, the Ombudsman has the discretion not to investigate matters that are considered frivolous, vexatious or where there is not a reasonable explanation as to why action was not taken over the 12 months of the complaint.

I acknowledge some provisions are designed to prevent frivolous or false allegations, but there is still one fundamental question left unanswered: what about the costs incurred by a target who is completely exonerated by an action taken by a whistleblower? It is not hard to imagine circumstances in which a public servant feels constrained to take legal advice, secure a legal protection and incur substantial costs only to find that when the investigation is completed that their position has been totally vindicated and they have been exonerated. It is not difficult to understand not only circumstances where the claim was erroneous but also that the challenge to a particular public servant turns out to see him or her simply following instructions from a superior. Nonetheless, that officer may have incurred substantial cost.

My third question was: why has no provision been made for cost recovery by an exonerated target? This is a sound illustration of why we should be pursuing this issue in this chamber because that question was raised specifically in the other place, and the honourable member for Richmond, Mr Wynne, as I recollect, acknowledged that the question had been raised and there was a commitment to a response. I can find no response in the reported debate in the lower house and am unaware of any response coming formally following the debate.

We were concerned about a genuine party being caught up as the target. I am delighted to have the government's commentary, which reports:

> The general principle applies in relation to legal costs — namely, legal costs are borne by the parties except in cases where a court may award costs to a successful party. If an investigation by an Ombudsman results in legal proceedings, then the issue of costs in the court would fall to be determined in the same way as any other legal proceedings.
>
> Government employees and members of Parliament may also be indemnified if they are required to defend themselves against the complaint brought against them under the Whistleblowers Protection Bill.

The following is a commitment by the government that I was looking for:

> An indemnity will be provided on a case-by-case basis, in ordinary circumstances for legal proceedings arising out of the discharge of an individual's duty on behalf of the Crown, provided the individual acted in good faith.

It is a direct commitment by government that someone caught up in the process and who incurred legal costs to defend their good name shall be indemnified. If the government is prepared to make that commitment, why was it not in the second-reading speech or, better still, in the bill? Why do we have to ferret this out?

Hon. C. A. Furletti — Anything in the budget?

Hon. R. M. HALLAM — Anything in the budget? In any event, this is a reasonable response. I am pleased to get it and to have it on the record. I am happy to say that I have now been satisfied and shall not pursue that issue any further.

The next question that I posed of government went to the matter of costs facing local government. If one is to rely upon the second-reading speech, public bodies are required to establish specific and extensive procedures to, among other things, facilitate the making of disclosures under part 2, for investigations of matters disclosed in public interest disclosures, and for the protection of persons from reprisals.

We are also told in the second-reading speech that:

> These procedures must comply with the bill and with guidelines to be issued by the Ombudsman under clause 69.

It is very clear that local government is facing additional administrative tasks as a direct result of the proposed new body of law.

I heard Mr Furletti quoting directly from the responses of two municipalities he is proud to represent in this place. I know there is great nervousness across the local government industry at large. I asked: what additional administrative tasks face local government?

The response was not much help. I was looking for a sign that local government would be supported in its new administrative responsibility and not left to struggle through alone. The government's reply is:

> The bill requires public bodies to establish procedures to facilitate the making of disclosures, for investigating disclosures and for the protection of persons from reprisals. Public bodies must also include information about public interest disclosure in their annual reports.
>
> Local governments will often already have complaint procedures in place. The requirements imposed by the bill will therefore often work in with existing complaint procedures. Furthermore, the Ombudsman is required to issue guidelines, which will assist local government in complying with the bill.

It is not much of an answer at all; it is about half an answer. I was looking for a sign of things to come — that is, what sort of additional workload was to be imposed on local government. The answer I got from the government in this case I could have drawn from the comments in the second-reading speech. So I will be looking for something a bit better than that during the committee stage.

The next issue is the concept of parliamentary privilege. In the second-reading speech we learn that members of Parliament are public officers — there is no doubt about that — and that protection will be given to a whistleblower making a public interest disclosure about members of Parliament. A whole range of really sensitive issues arose as a direct result of that comment. I thought the government might be prepared to expand upon that concept and remove some of those issues, so I simply asked of government in my listing of questions: how will the inclusion of MPs mesh with the existing concept of parliamentary privilege? I will read the response into the record because it is important:

> The inclusion of MPs does not compromise parliamentary privilege. The bill specifically recognises the requirement of parliamentary privilege. An MP will not be required to provide information pursuant to clauses 56(3) and 57 of the bill.
>
> Clause 56(3) of the bill provides that a person cannot be compelled for the purposes of an investigation by the Ombudsman of a disclosed matter to produce any document or give any evidence that the person could not be compelled to produce or give in proceedings before a court. This would apply to matters covered by parliamentary privilege.
>
> The principal immunity in relation to parliamentary privilege is the freedom of parliamentary debates and proceedings from question and impeachment in the courts. Members' activities may be held to be part of proceedings in Parliament, and therefore privileged, if it can be shown that they are 'for purposes of or incidental to' proceedings in a house or committee.
>
> Clause 57 provides that a person is not required or authorised to furnish any information or answer any question that relates to the deliberations of cabinet or a committee. This clause also recognises parliamentary privilege.

I am not sure whether that response goes to what I was trying to get to in the question. But I am prepared to acknowledge that in the first sentence the government makes a very clear statement. It states:

> The inclusion of MPs does not compromise parliamentary privilege.

I put the minister on notice that there will be further discussion about that during the committee stage. For the moment I am prepared to rely on the bald statement that there is no compromise of parliamentary privilege, and I thank the government for its response.

Then I asked: why did the government decide to introduce amendments which require any public interest disclosure against an MP to be referred back to the Privileges Committee? I made sure that everybody understood that and said, 'That is, removes the Presiding Officer's discretion under section 96'.

I got quite a long response to that. Again I consider it quite appropriate to read it into the record because it goes to the issues at the heart of the dispute, at least about the application of the bill, and it will be quite cogent to the debate that will take place during the committee stage. I was told by the government:

> The house amendments provide that a disclosure about a member of Parliament may be referred by the President or Speaker to the Privileges Committee (in their house).

Here is the bit that raises one eyebrow and maybe a hackle or two:

> The discretion of the President or Speaker is preserved as it is a matter for them to determine whether a disclosure is referred to the Privileges Committee.

That is just cute because it does not answer the question. The question was not whether they will have the discretion to pass the issue on to the Privileges Committee; the question was whether they will have the discretion to pass it on to the Ombudsman — that was the centre of the debate. I suggest that will come back for further discussion during the committee stage. The government's reply continues:

> If a disclosure is referred to the committee, the committee is required to consider the matter in private.

I should pause there and let honourable members take that in through the skin:

> If a disclosure is referred to the committee, the committee is required to consider the matter in private.

Hon. Bill Forwood — In private?

Hon. R. M. HALLAM — In private.

Hon. Kaye Darveniza — Bill's in his place; he's got a few things to say.

Hon. Bill Forwood — Only by way of interjection.

Hon. C. A. Furletti — And if they don't do it properly somebody can blow the whistle.

Hon. Kaye Darveniza interjected.

Hon. Bill Forwood — Are we going to bring the politics into this?

Hon. Kaye Darveniza — No.

Hon. R. M. HALLAM — Returning to the government's response:

> This will ensure that the identity of the whistleblower and the member of Parliament complained about remains confidential.

Hon. Bill Forwood — How does *Hansard* record laughter?

Hon. R. M. HALLAM — Pull the other one. I quote further:

> Once the Ombudsman has conducted an investigation, the Ombudsman must report back to the Privileges Committee. The committee will then consider in private what action to take concerning the report.

Here is the rationale, so it is very important. The government is saying:

> This approach ensures that a committee, not an individual, makes the important decision concerning: whether to refer an investigation to the Ombudsman; and what action to take concerning the report of the Ombudsman.

I am sure there will be some comment about that when Mr Furletti gets a chance to make it during the committee stage.

Further, we learn from the government that:

> This process is consistent with the existing scheme under section 16 of the Ombudsman Act for the investigation of parliamentary complaints. Under that act, either house, a committee of either house or a joint committee can refer a matter to the Ombudsman for investigation.

Finally we are told:

> The house amendments are consistent with the supremacy of Parliament. This procedure enables the Ombudsman to confidently perform an investigation concerning an MP, without compromising the supremacy of Parliament. This is because the Ombudsman will be acting as an agent of the Parliament, rather than acting on behalf of an individual.

I am happy to have that on the record. I am genuinely pleased that the government has addressed the issue I posed but it does not change the facts which, as I understand them, are that originally there were circumstances in which the Presiding Officers would indeed determine the direction of the complaint.

The Presiding Officers, whom we have come to know and respect, would have a discretion as to whether the complaint was referred directly to the Ombudsman. As a result of the eleventh-hour amendments, that discretion has been removed to the extent that the Presiding Officers are required, if they do anything, to refer the complaint to the Privileges Committee. As the Honourable Carlo Furletti said, that raises all sorts of question marks about partisan politics.

I for one am distressed at the changes that will take place as a result of the bill. If National Party members had been convinced in the first place that this was a genuine attempt to overcome a wrongdoing in the administration of the public sector, we were prepared to go with it. But those amendments and this explanation by the government indicate that we are playing politics with the same concept. I put the government on notice that when this issue comes before the committee, there will be a fair bit more said about it.

I also asked, because of the circumstances under which the debate took place in the Legislative Assembly, whether the Presiding Officers had been consulted in respect of the 11th-hour amendments. I acknowledge that was perhaps a bit frivolous, but it was important to understand what we are up against, because as a longstanding member of the chamber I have come to rely very heavily upon the sage wisdom of our Presiding Officers and I was keen to learn whether my Presiding Officer had been consulted about the change that is now being offered to the chamber. I thought I knew, because I read the debate in the other place, and I heard the accusations that flew across the table. However, I thought it appropriate to ask and, for what it is worth, I am pleased the government has been prepared to respond.

The response offered by the government to my question whether the Presiding Officers were consulted about the proposed changes was as follows:

> The procedure proposed in the house amendments did not affect the power of the President or Speaker and is consistent with the power they already have under section 16 of the Ombudsman Act. This procedure has existed under the Ombudsman Act since its commencement in 1973.
>
> As consultation took place with the government and the opposition in relation to the new procedure, the President and the Speaker were not directly consulted.

I am pleased to have it on the record that the government thought it unnecessary or inappropriate to consult with the Presiding Officers when there was to be a change in procedures that would see a discretionary power literally removed. I note that the government denies there to be any change. I look forward to the debate on the clause in the committee stage, because I am certain we can convince government members that there has been a substantial change to the discretionary powers of the Presiding Officers.

I then wanted to know about the confidentiality provisions and the way they would work in practical terms. I posed the question: what is to stop a public servant issuing a public interest disclosure to directly negate a confidentiality clause in a contract — that is, by means of a charge that turns out to be frivolous but is not 'false' under section 106? I am pleased to report that I have been persuaded that I was jumping at shadows. The government has responded thus:

> By making a disclosure, a public servant is not free to negate in a general sense a confidentiality clause in a contract. Clause 15 of the bill only provides that a person does not breach an obligation of confidentiality by making a disclosure within the framework of the bill.

This is the most important part:

> A person is not permitted to breach an obligation of confidentiality by making a disclosure publicly.

It is a point I had not caught up with. I again quote directly:

> The Ombudsman has a discretion not to investigate disclosed matters which he or she considers to be trivial, frivolous or vexatious. If the Ombudsman determines that a disclosure is frivolous, that would be the end of the matter and —

I underline this point —

> ongoing protection for any further disclosure of the information ceases.

The response makes it clear that even when the Ombudsman says, 'No, I am not going any further because that is frivolous', that of itself means that any protection for the 'whistleblower' ceases at that point. We learnt from the government's response:

> If a person continued to disclose the information, they would potentially breach a confidentiality clause in a contract.

That goes to the issue I raised, and I thank the government for its response. Finally I asked: why has the Ombudsman been given immunity from freedom of information? My understanding of the operation of the Ombudsman process was that he did very nicely relying on his standing rules of investigation. He did not really need to rely upon immunity from freedom of information. We are told, by way of response from government, that:

> The ability of the Ombudsman to properly investigate complaints depends upon assuring confidentiality to all complainants. This degree of confidentiality is necessary to encourage complainants to come forward and to promote the free flow of information.
>
> The exemption proposed by the Whistleblowers Protection Bill is not new and has been supported by successive governments.

I got it wrong, apparently, and I am pleased I got it wrong. It further states:

> The previous government introduced changes to the Public Sector Management and Employment Act which inadvertently brought the Ombudsman within the scope of the Freedom of Information Act.
>
> There are a range of mechanisms that exist to ensure accountability and access to information. The conduct of those agencies over which the Ombudsman is given supervisory jurisdiction are subject to the FOI Act and ministerial control.
>
> Further, the Ombudsman is directly accountable to Parliament.

Again, I say to the Minister for Small Business that I am very pleased to get that response. It is another issue that I do not intend to pursue further.

The conclusion of National Party members is that however well meaning the concept of whistleblower protection might be, it is a lot easier to promise than it is to deliver. The months which this bill spent in limbo are a graphic testament to that. We do not see the bill as being the panacea that is claimed by the government. We are sure that the protection afforded by the bill may entice some genuine informants to come forward. However, our concern is that it may also spawn a rash of zealot and ratbag claims, and we all know people who would fall within that category. We believe it might be more trouble than it is worth, and we hope we are wrong in that assessment.

The National Party will seek answers to a number of specific questions during the committee stage. However, on that note I end where I began: the National Party is not wildly enthusiastic about the bill, but it will not be opposing it.

Sitting suspended 6.29 p.m. until 8.02 p.m.

Hon. S. M. NGUYEN (Melbourne West) — Before the suspension of the sitting quite a few honourable members spoke on the Whistleblowers Protection Bill. I would now like to speak in support of it.

The previous speaker was concerned about a few issues. The bill is before the house as a result of one of the key commitments of the Bracks Labor government before the last election. Its duty is to deliver its promises as an open and accountable government that is more accessible to the Victorian community. The bill demonstrates that the government is seriously concerned about that and will enable that to occur.

All honourable members know that in our current system we have an Ombudsman to whom members of the public can make a complaint about the way public services have been performed. The folder in front of me entitled 'Ombudsman Victoria' describes the role of the Ombudsman in Victoria. Under the heading 'What does the Victorian Ombudsman do?' it clearly details what the community should expect of the Victorian Ombudsman and the range of duties he performs. It outlines that the major roles of the Ombudsman are to investigate, both formally and informally, complaints against Victorian public authorities, their staff and agents, officers of local councils, and Victoria Police. Under the heading 'Who can complain?' it also explains to the community that people can complain as an individual or as a group of persons.

Members of Parliament sometimes take complaints from constituents to pass on to the Ombudsman to ensure the matters can be investigated. The complaints must be made in writing but can be in languages other than English. As a member of Parliament I sometimes receive from constituents complaints relating to police matters. My role is to help them write letters to pass on to the Ombudsman, who conducts investigations and then sends replies to the complainants. Sometimes the letters are sent to me because I am the local member of Parliament. The Ombudsman has done a good job by providing an online service to provide advice to the community.

With this bill the government wants to protect the people who complain. People who complain can be threatened by employers. Under federal law the jobs of public servants who make complaints can be protected. This bill will provide protection so that every person who complains to the Ombudsman will be protected. It will ensure there is an independent investigation so that no-one can interfere in the process. It is very important that investigations be fully performed without fear of any intervention.

The government wants to change the system so the public can complain about members of Parliament to either the Speaker of the Legislative Assembly or the President of the Legislative Council respectively, who will assess whether a case should be dismissed and no further action taken or it should be sent to the Ombudsman. That is currently the issue. Under part 8 of the bill the government takes that a bit further by introducing a privileges committee system. A complaint from the public will go to either the Speaker or the President, who can pass it on to the appropriate Privileges Committee. The Privileges Committee can then make an assessment as to whether no further action should be taken or it should be passed on to the Ombudsman. As we know, the Privileges Committees are made up of elected members of Parliament.

Politicians from different political parties can assess a case before any further investigation is done. If a complaint is made against any member of Parliament it will be carefully considered by the whole committee. The Privileges Committee is there to go through the case.

The bill is designed to protect any person or body against allegations. The bill is certainly clear. The second-reading speech states that people who complain will not receive a penalty or payback, and will ensure that an investigation is fully implemented.

The bill makes some changes. The Ombudsman's office has done many good things in Victoria. It has performed well and is well regarded by the Victorian community, but the government would like it to go further. Information about people who are involved in any investigation or who are suing someone or complaining against someone will not be leaked to the public. The information will be protected. That is what the legislation is about.

Members of the general public can complain and any person who works in a department can complain about other people in the public service, about misconduct or improper conduct, or in some cases it could be corruption. The bill will apply to many things.

Some honourable members are concerned about local councils. The ratepayers of the community can complain to the Ombudsman, to the public service or to elected councillors about the service provided by a council.

Hon. R. M. Hallam — You do not have to be a whistleblower to complain about a service. You go and talk to your councillor.

Hon. S. M. NGUYEN — No, talk to the Ombudsman.

Hon. R. M. Hallam — Why don't you go and talk to the council?

Hon. S. M. NGUYEN — If you are unhappy with a councillor because of improper conduct, you may sue the councillor. A councillor is not normally involved in the day-to-day jobs. They can fix up the service about which the community is not happy, but we are talking further about corrupt or improper conduct.

It is also important that the community can complain about police performance. In the past demonstrators have made complaints about police performance when they have tried to control demonstrations. When I was with the City of Richmond there were problems at the Richmond High School between local groups and the police. The community wants to see proper conduct when police do their jobs.

It is a long bill. If I wanted to explain the details of the bill it would take a long time to go through every clause.

Hon. R. M. Hallam — If you did not understand it, it would take a long time to explain.

Hon. S. M. NGUYEN — I understand it. The bill is about protecting people who want to complain. Information cannot be leaked so that people who make a complaint do not need to worry about their jobs and be frightened of getting sacked because they complained about someone. Also the Privileges Committee has the right to assess every case when it receives it.

The government wants to make sure it is open, accountable and honest by consulting, and it is also good to encourage members of the community to make a complaint and for them to feel free to do that without being afraid or worrying about someone intimidating them or that they might lose their jobs. The bill will give the community more power and more protection in speaking up.

The public service provision will also cover a member of Parliament, so when we do our jobs we need to make sure we do a good job for the community. We should handle it well and show proper conduct to the community and also stop improper conduct which might lead to corrupt conduct. We have to stop those things happening. As a public servant or member of Parliament we have to be more aware of things and to make sure people in the community know their rights and what they can do to sue or complain against anyone involved in wrongdoing, and that it does not take a long time to find out. The bill will change public thinking, and I support it.

Hon. W. I. SMITH (Silvan) — I do not oppose the Whistleblowers Protection Bill but I have some very strong reservations about it. I support the amendments. I will make only a very short contribution to the debate, but I will speak specifically about the part of the bill that relates to whistleblowers who are public servants, about which I have some grave concerns.

I believe that whistleblowers in the public service may not be protected by this bill. The bill is supposed to protect people who disclose improper conduct by public officers or public bodies, but to obtain protection the disclosure must be protected. The bill provides that once the protected disclosure has been received by the Ombudsman or a public body, a decision must be made as to whether the disclosure is in the public interest. If it is, the Ombudsman or public body will investigate the matter; if it is not, they will not investigate it unless the whistleblower takes further action.

To be in the public interest a disclosure must show or tend to show that the public officer or body is engaging in improper conduct or in a reprisal. If the disclosure is deemed not to be in the public interest, protection is not given but the whistleblower can refer the matter to the Ombudsman under the Ombudsman Act. The Ombudsman can investigate the matter or refer it to someone else, including a public body, to investigate. The Ombudsman must advise the whistleblower of the decision to refer the matter for investigation and of the final decision. The Ombudsman must inform the relevant body or officer, if an officer is the subject of investigation, and must give the accused person the right to be heard. The Ombudsman must report to the relevant person, but if action is not taken then the Ombudsman reports to the Parliament.

The popular and accepted definition of a whistleblower is someone who brings to the attention of the public a serious wrongdoing — for example, criminal behaviour such as the taking of bribes — by public officials or organisations, or actions taken by public organisations or officials which the whistleblower believes have seriously compromised or will seriously compromise the public interest.

In the past, whistleblowers have gone public because attempts to obtain responsive action within the relevant organisations have led to inaction or harassment, or both, of the whistleblower by the organisation concerned. This bill is an attempt to protect the whistleblower. If it does that, then that is admirable, but I suggest it can be interpreted differently.

A number of opinions on the bill have been expressed outside the house. I refer to an article in the *Age* of 6 March, which states:

> Jean Linane, president of Whistleblowers Australia, told the *Age* the bill would do nothing to protect public servants who put their careers on the line.
>
> …
>
> The bill provides for public servants to take allegations in confidence to the Ombudsman, but Dr Linane said among her 500 members there was a view that the 'Victorian Ombudsman's record is weak, to put it in flattering terms'.
>
> Dr William De Maria, of Queensland University's centre for public administration … was also dismissive of the bill, rating it 4 or 5 out of 10'.

I ran the bill past one of the most famous whistleblowers in Victoria, Mr Damien Bonnice, who was a project director in the Office of Major Projects, to get his opinion on it. He believes that the effect of the legislation would be to further isolate public interest whistleblowers and to allow harassment of them by affected organisations and officials under the guise that they did not follow the correct statutory procedure. Obviously Mr Bonnice has had a very difficult public run-in with this government, but he is a very experienced public servant and having read the proposed whistleblowers legislation he is not convinced it will do what it intends to do.

I am concerned about the bill because of the opinions I have referred to. As I said, it would be excellent if the legislation did protect whistleblowers who went out on a limb in the public interest, but I have grave concerns that that will not happen.

Public servants who speak out in the public interest do so at very great personal cost to themselves, their families and their jobs. It is not an easy decision to make and it is not taken lightly. Professional public servants who have been in their roles for a long time obviously have to take into consideration the fact that speaking out may end their careers. When they speak out it is because they believe the public should be made aware of an issue — they have the ideal that if something is going wrong it is in the public interest to have a debate on the issue, and they believe that the public arena is the best forum in which to resolve a major public issue.

As I said, Mr Damien Bonnice is one of the most publicised whistleblowers in the term of the Bracks government. He is a fine architect who ran a very good section in the Office of Major Projects and was the project director for Federation Square. The Old Treasury Building was refurbished to the standard it is at today under his directorship. He is also the person who directed the Becton redevelopment of the Jolimont rail yards — he put that deal together and made it happen when it did not look like happening. He is a public servant with a record of delivering projects and understanding what he is delivering.

As I said also, after reading the proposed legislation he believes it will not protect whistleblowers. It is to be hoped that it will do that, but there are people who have had experience with the Bracks government who do not believe it will happen. After Premier Bracks was elected, he went public and in the *Australian* of 28 February 2000 in respect of government employees who spoke out was reported as saying:

> We want to make sure that if things are not working well, that they can express their view and express it with impunity.
>
> They won't be silenced, they won't lose their job.

That was the commitment Mr Bracks gave on how this government would handle whistleblowers. If Mr Bracks had been genuine in his claim that the government would not harass whistleblowers perhaps the situation with Mr Bonnice would not have occurred.

Mr Bonnice has documented what happened to him. He has given me permission to put on record how the Bracks government treated a public servant who believed due process was not observed in relation to Federation Square and the removal of the western shard. His experience is instructive on how this government handles whistleblowers.

Mr Bonnice followed all internal due processes when he raised concern about the government's handling of the Federation Square project. After raising it and being ignored he raised the issue in the public arena because he believed there was nowhere to go and that the public should be aware of why the Bracks government was making the decision it was.

At that time his concern, which was supported by legal opinion, was that the government had not followed the due process as specified in the contract between the Melbourne City Council and the state government in taking its decision to axe the western shard.
Mr Bonnice believed it was very important that there be a public hearing and debate on the issue because the decision to remove the western shard had serious financial, architectural and functional risk implications for the project. Those risks have now been realised, and the public interest has been seriously compromised.

At the time Mr Bonnice went public the government's response was immediate: he was removed as project director of the Federation Square project. He was instructed to take two weeks sick leave but opted for annual leave.

He came back a week early and resumed his position as project director. Two days later he read a newspaper report quoting a government spokeswoman who said he was being counselled — he was not at the time — and had been removed from his position, when he did not appear to have been and was still doing the job.

The same spokeswoman advised another newspaper journalist that the government was doing a dorothy dixer on Mr Bonnice in the Legislative Assembly of Parliament and that he should attend question time to hear the government's response on the issue. Mr Bonnice attended the parliamentary question time only to be rung by the journalist to be told that it had been pulled and would no longer happen.

At the time when Mr Bonnice tried to defend himself publicly on the issues that were being raised he was advised by the government — by the Department of State and Regional Development — that it was launching an inquiry into his behaviour. As the pressure mounted so did the pressure on his personal life and his family. He thought, for the sake of his family and the role he had taken, that he had nowhere to go — particularly because of the way the matter was being handled by this government — other than to resign. As I said, it was a huge personal cost to him at the time.

The day after Mr Bonnice resigned he was rung by two senior public servants who, separately and independently, advised him off the record to be prepared because the government was looking at sending the police to raid his house. He did not know whether that would happen, but having been advised independently by two senior public servants and having at home his wife and a child who had been sick, he locked his gate in the interests of protecting his family. For the record, he was not visited by police.

During all those events, at no time was any interest shown by the Bracks government in the issues that Mr Bonnice had raised concerning the government's handling of the project. I raise that issue because the Bracks government says it is really serious about protecting whistleblowers who truly speak out, after much deliberation, in the public interest. The government's handling of this situation raises the questions: how serious is it about this legislation, and what faith can one put in the government?

In conclusion, I just wanted to address the protection of professional public servants who speak out and who so far are seen to be putting their jobs at risk. I do not oppose the bill, but I have some grave reservations about how it will work and how far the government will go in protecting public servants.

Hon. JENNY MIKAKOS (Jika Jika) — It is with great pleasure that I rise to speak on behalf of the government in support of the Whistleblowers Protection Bill. I hope fairly briefly to outline the reasons I support it. Honourable members will be aware that the legislation was foreshadowed by the government before the last election and that it forms part of the Labor Party's pre-election policy of bringing about open and accountable government. This bill seeks to achieve exactly that.

I am confident that this unique piece of legislation will bring about open, transparent and accountable government in Victoria. Many honourable members will be aware of some prominent examples of whistleblowers coming forward at great personal cost to themselves and their families; on some occasions they have borne the brunt of retribution by the agency to which they belonged. The government believes it is important to protect those people — who are motivated by a sense of public duty and strong public ethics — by a legislative process that enables them to come forward, make their complaints and disclose any relevant information they may have with a view to having the matter properly investigated.

The bill provides appropriate mechanisms for such information to be investigated, whether it relates to a public officer or a public body, and provides for different mechanisms depending on the category of public officer or public body that is the subject of the particular complaint.

A key definition in the bill is that of 'improper conduct'. That term is integral. It relates to corrupt conduct — which itself is a defined term under the bill; it also relates to substantial mismanagement of public resources; substantial risk to public health and safety; or a substantial risk to the environment. We are talking about serious allegations that may be made by members of the public or by public servants. It is most important that such allegations, which potentially may be very serious, should be properly investigated. These types of serious allegations can be brought to light only if whistleblowers are afforded proper protection.

I note that part 3 of the bill provides for a number of different types of protections for whistleblowers. It is important to place on the public record what those key protections are.

Clause 14 provides for an immunity from liability — whether it be civil or criminal or a liability by way of administrative process, including disciplinary action — in favour of any whistleblower who is making a protected disclosure.

In addition, clause 15 provides that a person who makes a protected disclosure is not guilty of committing an offence where that person is required to maintain confidentiality or is contractually required — under an employment agreement, for example — to maintain confidentiality. In effect, the clause provides a broad power to override any confidentiality provisions that might be included in a person's employment contract. That is a very important provision because in the past potential whistleblowers have been prevented from disclosing information because of injunctions brought about by employers who have tried, in effect, to shut them up.

The other important protections offered to whistleblowers are contained in clauses 16, 17, 18, 19 and 22. Clause 16 provides a defence of absolute privilege to a whistleblower where defamation proceedings would otherwise be commenced against that person. Clause 17 provides that a whistleblower is not personally liable for their own conduct. Clause 18 provides a very important protection from reprisal where a person makes a protected disclosure and their employer or some other organisation seeks to take a particular course of action in reprisal. I note that the penalty for that under clause 18 is quite substantial — $24 000 or two years imprisonment or both. That is a significant disincentive to the taking of reprisal action against whistleblowers.

The other important protection for whistleblowers is contained in clauses 19 and 22. Clause 19 allows a whistleblower to commence civil proceedings against any individual or organisation that might take reprisal action against that whistleblower as a result of the whistleblower disclosing whatever information they may have. Clause 22 creates an offence for any person who receives information as a result of a whistleblower complaining from disclosing that information. That is an important provision which again has significant penalty provisions.

It is important to note that the legislation is balanced in its approach because while it offers significant protections to whistleblowers it also offers significant protections to organisations and individuals who may be the subject of a complaint. Unfortunately not all allegations will be substantiated nor will all whistleblowers be motivated by a sense of public duty or altruistic motives. The bill puts in place a number of protections for the reputation of public officers and public bodies who may be unfairly the subject of a complaint.

The most important protection offered to such public officers and public bodies is included in the mechanism provided by the bill itself for complaints to be properly investigated. I will briefly discuss those mechanisms later in my contribution. The other protection offered to public bodies and public officers is provided in clause 106, which makes it an offence to knowingly make a false disclosure. I note again that the clause has significant penalty provisions.

Clause 40(1) gives the Ombudsman a discretion not to investigate a matter that is trivial, frivolous or vexatious. In addition, clause 60(1)(c) and (d) make it an offence to knowingly mislead the Ombudsman.

I also note the important protections afforded to public officers and public bodies contained in clause 5, which provides that a whistleblower must believe on reasonable grounds there is improper conduct or detrimental action in order to benefit from the protections afforded to him under part 3 and that the disclosure must be made in accordance with part 2.

The other protections offered to public officers and public bodies are included in clause 61, which gives persons or organisations who might be the subject of a complaint the right to be heard prior to an adverse report being made by the Ombudsman in accordance with natural justice principles. Clause 53 gives a person the right to legal representation at the discretion of the Ombudsman.

As I said previously, clause 106 is important in that it offers considerable protection to public bodies and public officers. I note that it provides specifically for it to be an offence for a person to knowingly provide false information intentionally intending that it be acted upon. Clause 106 applies to persons providing false information to the Speaker of the Legislative Assembly, the President of the Legislative Council, the Ombudsman, the Deputy Ombudsman, the Chief Commissioner of Police and a public body. Clause 106 goes a long way to alleviate the concerns raised by the opposition about complaints being made against members of Parliament. I note that that clause has a penalty provision of $24 000 or two years imprisonment or both. I will return to that clause later in my contribution.

I want to address some of the concerns raised by the Honourable Roger Hallam in his contribution, specifically the criticism he made of the open-ended nature of complaints being investigated that relate to conduct or matters arising before the introduction of the bill by virtue of clause 9. Clause 9 should be seen and read in light of the important limitation contained in clause 40(1)(b), which provides that the Ombudsman has a discretion not to investigate a matter where the

person had the knowledge of a matter for more than 12 months and is not able to give a satisfactory explanation for the delay in making the complaint to the Ombudsman.

By being open-ended clause 9 is intended on my reading of the bill to deal with matters where a person does not currently have the knowledge but may become aware of the conduct after the passage of the bill relating to matters that may have occurred prior to its introduction. I hope the Honourable Roger Hallam is listening to my explanation of the finer points of clause 40(1)(b) because it deals with his criticism of the open-ended nature of clause 9. It is clear that it is not intended that clause 9 should open the floodgates, but allows matters that may come to light after the passage of the bill to be properly investigated where a whistleblower does not have the current knowledge at this point in time.

I briefly refer to the complaints mechanisms, which I vary depending on the category of the public officer or public body the whistleblower's complaint relates to. Clause 6 specifies to whom the complaint must be made. I will not spend much time going over that provision, suffice it to say that depending on the subject matter of the complaint, complaints can be made to either the Ombudsman, Deputy Ombudsman, President of the Legislative Council, Speaker of the Legislative Assembly, Chief Commissioner of Police or a public body.

Different parts of the bill relate to each of those particular investigations and parts 4 and 5 relate to investigations by the Ombudsman, including complaints about local councillors that are not to be made to the council but are to be investigated by the Ombudsman. In addition, division 2 of part 4 and part 6 relates to the investigations by public bodies and part 7 relates to investigations by the Chief Commissioner of Police.

A number of provisions in division 3 of part 4 and clauses 26 and 27 specify the circumstances where the Ombudsman may refer complaints about police officers to the Chief Commissioner of Police.

I note that for matters dealing with either public bodies or police officers there is a mechanism under the bill that where either the Chief Commissioner of Police or the public body, as defined in the bill, has concluded that there is no public interest disclosure, it is possible for a whistleblower to seek a review of the decision by the Ombudsman.

Hon. Bill Forwood — Do you have any idea what that question means?

Hon. JENNY MIKAKOS — I have. You obviously don't.

The Ombudsman has broad functions under clause 38 to oversee investigations. Clause 39 provides a statutory duty for the Ombudsman to investigate every public interest disclosure. A public interest disclosure is defined in clause 24, subject to exceptions contained in clause 40 which relate to trivial and vexatious matters and matters that are more than 12 months old.

I do not wish to spend a great deal of time going over the provisions of the bill because opposition members who have spoken on this point have focused their comments on part 8. I shall turn my attention to that part of the bill also.

Mr Furletti acknowledged there had been consultation by the government with the opposition parties. To use the words of the Honourable Roger Hallam, they claimed they were ambushed. I categorically reject the assertion that the opposition parties were ambushed about the house amendments to part 8 moved in the Legislative Assembly. I understand the opposition parties were briefed late last year about what the government was intending to do with the provisions in part 8. The opposition parties did not indicate that they had difficulty with what was being proposed under the provision at that point.

Hon. R. M. Hallam interjected.

Hon. JENNY MIKAKOS — I understand that Mr Furletti, and Dr Dean in the other place, were provided with a detailed flow chart indicating the process contained in part 8. The wording may not have been provided but it was clear from that flow chart at the briefing that this was the amendment the government would introduce.

Hon. R. M. Hallam — Are you suggesting that the opposition parties were put on notice that there was to be a change in the discretionary powers of the Presiding Officers?

Hon. JENNY MIKAKOS — We will no doubt go over this in some detail.

Hon. R. M. Hallam — You made a challenge. You said I was wrong in my understanding.

Hon. JENNY MIKAKOS — My understanding was that the opposition parties were briefed in some detail about what was being proposed in part 8, and

they did not indicate they had a problem with it. In fact, it was the opposition parties — —

Hon. C. A. Furletti — On a point of order, Madam Acting President, I have been listening to the comments of the honourable member and they are totally misleading. I have been involved in the negotiations and in the preparation of the bill for presentation to this house in an effort to resolve the matters that were presented in the other place on the morning concerned. That did not allow the Liberal Party time to consider the amendments that were made literally at the eleventh hour on that day. For the honourable member to say that, she is either misinformed, uninformed or seeking to mislead the house.

Hon. JENNY MIKAKOS — On the point of order, Madam Acting President, I completely refute that. Mr Furletti is seeking to indicate that he is offended by matters that actually occurred. He now appears to be denying that he attended briefings that occurred late last year. He not only denied it, he put it on the public record.

Hon. C. A. Furletti — Further on the point of order, Madam Acting President, this is a point of debate. I mentioned nothing of briefings. I went to a briefing some time in August last year. The paper on which I had written my notes has turned brown. The point I am making is that the honourable member knows this matter was raised in the other place on the morning of the second reading.

The ACTING PRESIDENT (Hon. D. G. Hadden) — Order! There is no point of order.

Hon. C. A. Furletti — Excuse me, Madam Acting President, I have not finished my point of order. Am I allowed to finish my point of order?

The ACTING PRESIDENT (Hon. D. G. Hadden) — Order! Continue.

Hon. C. A. Furletti — The honourable member is saying the opposition was aware of the amendments that were tabled in the other place with the second reading some time before that actually occurred. I am putting to the honourable member that she is either misinformed, uninformed or is seeking to mislead the house. If the honourable member suggests that those documents were presented earlier, and can establish that, I am happy to apologise. I indicate to the honourable member, that having been involved with this from the outset, and being one of the members of the policy committee in this matter, the matter was presented to the parties on Monday and was tabled at the second reading as house amendments.

Hon. JENNY MIKAKOS — On the supplementary point of order, Madam Acting President, I never said the actual wording was shown to opposition members. I said a flow chart was provided and they were extensively briefed on the matter. If you wish to put words in my mouth you can check *Hansard.* If Mr Furletti thinks I am misleading the house he knows how to deal with the process. I will not withdraw because that is not what I said.

Hon. C. A. Furletti — Further on the point of order, Madam Acting President, if the honourable member is suggesting that we were briefed on the amendments that were tabled at the second-reading stage, she is wrong. If she is suggesting that we were briefed on the original bill as first read, she is correct. The honourable member made a similar comment last night, having not read the *Hansard* from the other place. Had she read the *Hansard* from the other place she would have seen that as the shadow Attorney-General got to his feet to debate this bill the attendants were still distributing the house amendments.

The ACTING PRESIDENT (Hon. D. G. Hadden) — Order! There is no point of order.

Hon. JENNY MIKAKOS — I did read it but the Assembly *Hansard* makes boring reading anyway. I remind Mr Furletti — —

Honourable members interjecting.

The ACTING PRESIDENT (Hon. D. G. Hadden) — Order! I ask the house to come to order.

Hon. JENNY MIKAKOS — I remind Mr Furletti, as no doubt he is suffering from selective amnesia — —

Honourable members interjecting.

Hon. C. A. Furletti — Madam Acting President, my point of order relates to the fact that Ms Mikakos is directing her comments to me. I understand they should be directed through the Chair.

Honourable members interjecting.

The ACTING PRESIDENT (Hon. D. G. Hadden) — Order! There is no point of order. Ms Mikakos, to continue.

Hon. JENNY MIKAKOS — If we can perhaps all calm down a bit; I do not want to be here all night.

Honourable members interjecting.

Hon. JENNY MIKAKOS — It is important to put on the public record that the government did consult considerably with the opposition parties on the bill and did take on board concerns raised by the negotiators for the Liberal Party to do with the mechanism as contained in the bill in its original form. It was in large part in response to concerns raised by negotiators for the Liberal Party that the government amended parts of the bill.

The DEPUTY PRESIDENT — Order! Through the Chair.

Hon. JENNY MIKAKOS — I am happy to accommodate, Mr Deputy President. As I said, it was in large part in response to concerns raised by the negotiators for the Liberal Party that the government made the changes. It appears that now the Liberal Party has changed its mind on what I believe is a mistaken basis. I will go through that in some detail, both now and no doubt during the committee stage.

The Liberal Party indicated that it did not want to leave the matter in the hands of either the President of the Legislative Council or the Speaker of the Legislative Assembly. When the bill was in the Legislative Assembly, the government made amendments which provide for a very sensible mechanism allowing the President of the Legislative Council and the Speaker of the Legislative Assembly to refer a matter to the Privileges Committee of the relevant house of Parliament, and that the Privileges Committee is not the final arbiter but a filtering mechanism, in effect, to determine whether the matter should be referred to the Ombudsman.

It is quite surprising that Mr Furletti appears to have forgotten that he is a member of this chamber's Privileges Committee. He seems to be telling honourable members that he has no confidence in his own ability or that of Mr Baxter and Mr Davis to be impartial on matters coming before the Council's Privileges Committee. My understanding is that the Privileges Committee has a longstanding tradition in the Westminster system of Parliament. It allows for complaints about members of Parliament to be heard in private prior to a matter being raised in the house.

If the amendment proposed by the Liberal Party were accepted, all such matters would be raised in the chamber and the member of Parliament concerned would in effect be subject to a trial by media. If members of the Liberal Party want to go down that path, so be it. I should add that the government is prepared to introduce a system over which it in effect has no control. I remind members of the Liberal Party that their party has the numbers on the Privileges Committee of this chamber. It is hoped they would respect the proper traditions of that committee in such a way as to not abuse the Privileges Committee to air matters that are unsubstantiated and clearly partisan in nature.

It is important that members of the Liberal Party who appear to have a fundamental objection to the involvement of the Privileges Committee in the process be reminded that they have a majority membership of that committee and that the government would expect them to exercise the power of that majority in a proper and due fashion.

I note also that there is a protection in that clause 96(3) provides that the Privileges Committee must conduct its deliberations in private. It is to refer a matter to the Ombudsman only where the prima facie test is met, and the standard of proof is where the Privileges Committee concludes that the disclosure shows or tends to show that the member of Parliament to whom the disclosure relates has either engaged in improper conduct or is taking some detrimental action. That fairly involved process is designed to ensure that a member of Parliament will have the right to put their case to the Privileges Committee before the matter goes public and is reported in the media.

I note also that Mr Furletti sought to query why the government had included members of Parliament at all in the proposed legislation. If Mr Furletti had his way, apparently members of Parliament would be exempted from the whistleblowers legislation, thereby giving them a right which no other public officer or public body in this state would have. It is highly hypocritical that Mr Furletti makes that suggestion at the same time as his own party is seeking to argue that members of the Victorian judiciary have a very high public standard to meet. He is suggesting that members of Parliament do not have to meet the same standards.

I also remind honourable members that this bill does not in any way affect parliamentary privilege. The bill specifically acknowledges parliamentary privilege. I refer honourable members to clause 56(3), which provides that a person cannot be compelled for the purposes of an investigation by the Ombudsman to produce any document or give any evidence that the person could not be compelled to produce or give in proceedings before a court.

That clause specifically covers matters protected by parliamentary privilege. It does so because the government acknowledges that members of Parliament should be able to have matters pertaining to privilege heard before their parliamentary peers. I note also that sessional orders provide a mechanism for privilege matters to be referred to the President of the Legislative Council. However, the bill would no doubt cover situations relating to parliamentarians' extracurricular activities which may not fall within the ambit of parliamentary privilege.

I also refer honourable members to clause 57, which provides that a person is not required or authorised to furnish any information that relates to cabinet deliberations or deliberations of a parliamentary committee. This clause is also consistent with parliamentary privilege.

The bill provides a number of protections for members of Parliament who may unfairly be the subject of allegations. As I indicated, part 8 contains a sensible mechanism that seeks to have vexatious or partisan matters dealt with in house by, it is hoped, a privileges committee that respects its historic duties to this house.

I am surprised that Liberal Party members have indicated they will move amendments in the committee stage. While Mr Furletti complained about the lack of consultation, it is only at the last minute tonight that he has indicated to the government the exact nature of those amendments.

I will possibly have the opportunity to contribute further during the committee stage so I will conclude my contribution by urging all honourable members to support this important groundbreaking legislation for the state because it offers potential whistleblowers the protection to come forward with information. It also offers proper protection for public officers and public bodies who may unfairly be the subject of criticism. I commend the bill to the house.

The ACTING PRESIDENT (Hon. R. H. Bowden) — Order! I am of the opinion that the second reading of the bill requires to be passed by an absolute majority. As there is not an absolute majority of members of the house present, I ask the Clerk to ring the bells.

Bells rung.

Members having assembled in chamber:

The ACTING PRESIDENT (Hon. R. H. Bowden) — Order! So that I may ascertain whether the required majority has been obtained, I ask honourable members who are in favour of the question to rise in their places.

Required number of members having risen:

Motion agreed to by absolute majority.

Read second time.

Committed.

Committee

Clause 1 agreed to.

Clause 2

Hon. M. R. THOMSON (Minister for Small Business) — The bill brings to the Parliament the commitment of the Bracks government to pass legislation in relation to whistleblowers and to protect them in disclosing matters of serious criminal or improper behaviour and practice. The government believes the bill will go a long way to ensuring that those who have matters of importance to disclose are able to do it and conducts it in a way that protects those who may be innocent from false and vexatious claims while ensuring there is an avenue for genuine whistleblowers to use proper processes to disclose what may be occurring in public bodies.

Clause agreed to.

Clause 3

Hon. C. A. FURLETTI (Templestowe) — The definitions in clause 3 are somewhat convoluted. I do not seek to prolong the debate, but I believe it is in the interests of those who will be using the bill in the long term to have some guidance on the terminology that is used. In particular I am concerned about the definitions of 'corrupt conduct' and 'improper conduct'. I refer the minister to subclause (a) of the definition of 'corrupt conduct', which states:

> (a) conduct of a person (whether or not a public officer) that adversely affects …

While the minister has confirmed that the intention of the bill is to afford protection to persons who complain about public bodies performing public functions and public officers, the situation here is that the conduct of what appears to be any person can be challenged and disclosed. Have I misread the clause, or is that accurate?

Hon. M. R. THOMSON (Minister for Small Business) — Can I clarify what Mr Furletti is saying? Is he suggesting that in talking about the conduct of a

person, that could refer to anybody, not just someone who is holding a public officer's position such as a public servant?

Hon. C. A. Furletti — Yes, that is my question.

Hon. R. M. Hallam — Chairman, can I help the committee?

The CHAIRMAN — Order! The minister has the call, Mr Hallam.

Hon. R. M. Hallam — The minister is about to sit down, and I might be able to assist.

The CHAIRMAN — Order! Thank you, Mr Hallam.

Hon. R. M. HALLAM (Western) — Thank you, Mr Chairman. I can follow my colleague. Clause 3 under the heading 'Definitions' qualifies corrupt conduct as meaning:

> (a) conduct of a person (whether or not a public officer) …

I would have thought it is very clear that it is not restricted to a public officer. In my view the object of the member's question is very clear indeed and we should get clarification.

Hon. M. R. THOMSON (Minister for Small Business) — I believe this refers to the conduct of a public officer or a public body. I will seek advice from the box. I have been advised that that is in fact correct.

Hon. C. A. FURLETTI (Templestowe) — So while the purpose is defined as encouraging the disclosure of improper conduct by public officers and public bodies, it can in fact relate to improper conduct by anybody, providing there is some nexus with public officers and public bodies?

Hon. M. R. THOMSON (Minister for Small Business) — I have been advised that that is not the case.

Hon. R. M. Hallam — On a point of order, Mr Chairman, can I prevail on you to ask that there be a lower volume of noise across the chamber? I am having great difficulty picking up the minister's responses.

The CHAIRMAN — Order! I ask that the level of conversation at the front of the chamber be reduced. The committee is having difficulty hearing.

Hon. C. A. FURLETTI (Templestowe) — Will the minister provide the committee with an explanation of what the government would consider to be inappropriate partiality as referred to in subclause 3(1)(b)?

Hon. M. R. THOMSON (Minister for Small Business) — I believe that would be a matter for the Ombudsman to determine.

Hon. C. A. FURLETTI (Templestowe) — I suspect that in the drafting of the provisions of this bill some thought has gone into what type of conduct will be corrupt conduct. As I indicated in my contribution to the second-reading debate, one of the difficulties with the bill is that it is somewhat convoluted. It talks of corrupt conduct, and corrupt conduct is one of the heads of improper conduct — in fact, it stands alone. Yet the definition of corrupt conduct, as set out in the provisions of the bill, does little to assist us. That is why I refer particularly to subclause (b) which states:

> (b) conduct of a public officer that amounts to the performance of any of his or her functions as a public officer dishonestly or with inappropriate partiality …

I suspect that the minister has some view. If she refers me to the Ombudsman I fear we will have serious problems in the interpretation of this and I fear gravely that Mr Hallam's foreshadowing of a barristers' banquet will arrive very early in the piece. Will the minister assist those who will be using this bill with what the government intends inappropriate partiality to mean?

Hon. M. R. THOMSON (Minister for Small Business) — This subclause relates to improper conduct. The intention of this legislation is that it be used for very serious acts of improper conduct or corrupt conduct, and the inappropriate partiality would relate to improper conduct in relation to a public officer.

Hon. C. A. FURLETTI (Templestowe) — I do not want to drag this out longer than necessary, Mr Chairman. However, improper conduct is reasonably defined in that we are given four bases which, if proved, would constitute criminal conduct. Improper conduct is better defined than corrupt conduct. I will not pursue it, suffice it to say that I do not accept the answer given. The inappropriate partiality arises under corrupt conduct.

Hon. M. R. THOMSON (Minister for Small Business) — Yes.

Hon. C. A. FURLETTI (Templestowe) — Corrupt conduct is one leg of improper conduct. So can the minister offer some assistance with what the government envisages?

Hon. M. R. THOMSON (Minister for Small Business) — In relation to inappropriate partiality I guess the best example I could give is that of a tendering process in which it was obvious that the proper processes had not been gone through and that an inappropriate partiality had been shown to someone in that process.

Hon. C. A. FURLETTI (Templestowe) — Thank you, Minister.

Clause agreed to; clause 4 agreed to.

Clause 5

Hon. C. A. FURLETTI (Templestowe) — Is it the government's intention with clause 5 that only natural persons be in a position to disclose improper conduct?

Hon. M. R. THOMSON (Minister for Small Business) — Yes.

Clause agreed to; clause 6 agreed to.

Clause 7

Hon. C. A. FURLETTI (Templestowe) — Anonymity is always a matter of great concern to me. In his contribution the Honourable Roger Hallam indicated the prospects and likelihood of the costs a person could incur through a disclosure that was made. When that disclosure is made anonymously it certainly aggravates the situation. How does the government see the principles of natural justice applying in circumstances such as these?

Hon. M. R. THOMSON (Minister for Small Business) — In relation to an anonymous disclosure it allows the Ombudsman or the public office or body that may investigate to see whether there is any evidence to back up that request for consideration under this legislation. It would be held confidentially until and unless there were other legal actions that needed to take place arising from other evidence that may be brought to bear in relation to what the Ombudsman or public body might find.

Hon. C. A. FURLETTI (Templestowe) — Am I to take the minister's answer to mean that in the event that the disclosure was found to be not a protected disclosure, the veil of anonymity would be removed and the person complained against, if there were any rights, would be aware of the person who had made the disclosure?

Hon. M. R. THOMSON (Minister for Small Business) — No, I do not believe the veil of anonymity would be lifted. However, should that person proceed to make public that disclosure, that would be outside the realms of the legislation.

Clause agreed to; clause 8 agreed to.

Clause 9

Hon. C. A. FURLETTI (Templestowe) — Does the government consider that an open-ended retrospective period for the making of complaints is appropriate? That is what clause 9 does.

Hon. M. R. THOMSON (Minister for Small Business) — It does not have a closing-off time period. However, it allows a discretion for the Ombudsman to deal with matters that are over 12 months old and to determine whether such matters should be considered under the legislation as public importance disclosure matters. On that basis the Ombudsman would be able to determine whether the case that is brought to him or her is worthy of further follow-up and investigation.

Hon. C. A. FURLETTI (Templestowe) — Am I to understand from the minister that for somebody who has been injured through gross negligence it is government policy to impose a six-month limitation period during which they can institute a claim, but that the Ombudsman would have the discretion to allow somebody's life to be seriously affected in other ways by allowing a disclosure to be made in respect of an event that may have occurred 20 years previously?

Hon. M. R. THOMSON (Minister for Small Business) — I should make it clear that before it becomes a matter under the act it has to be investigated. It remains confidential until and after that occurs according to the legislation. So those matters would not be made public, and they certainly could not be made public if the Ombudsman felt they did not warrant being included as matters to be looked under the legislation.

Hon. C. A. FURLETTI (Templestowe) — I see this as a significant part of the bill, which could create some enormous difficulties for people who found themselves in such an unenviable situation. To ensure I have understood the operation of the bill well, I understand that a person is entitled to make a disclosure to the public body or to the Ombudsman. You indicated that the Ombudsman has the discretion as to whether to conduct an investigation. I referred in my contribution to this being a two-bites-of-the-cherry situation. It is a double-jeopardy situation where a person can disclose firstly to the public body, and the public body is obliged, as I read clause 9, irrespective of when the conduct occurred, to investigate. If the complainant is dissatisfied pursuant to those other elements in the bill,

he can then go directly to the Ombudsman, who is then also obliged to take it. But it is only the Ombudsman who has the discretion of allowing it if it is more than 12 months old.

Hon. M. R. THOMSON (Minister for Small Business) — It is correct that the Ombudsman is the only one who has the power to determine whether a case over 12 months old can be proceeded with, and that the complainant has to give a satisfactory explanation to the Ombudsman as to why they delayed making that disclosure. They have to provide to the Ombudsman a reason for the delay in the disclosure being made.

Hon. C. A. FURLETTI (Templestowe) — If I understand what the minister has said, by default the public body and the Chief Commissioner of Police are obliged to conduct their inquiry irrespective of when the conduct took place, because they do not have the same discretion as the Ombudsman. Is that right?

Hon. M. R. THOMSON (Minister for Small Business) — I believe that they would have to refer the matter to the Ombudsman.

Hon. C. A. FURLETTI (Templestowe) — I am not sure I agree with the minister, because I understand the public body and the chief commissioner are obliged to conduct the investigation under the guidelines that the Ombudsman sets, but that they are not obliged to refer it to the Ombudsman unless they find just cause. For that reason the complainant has the option, if he or she is dissatisfied with the finding of the public body investigator or the chief commissioner, to go directly to the Ombudsman. I ask the minister to seek advice, if she needs to, on whether I have misunderstood it, or whether she has.

Hon. M. R. THOMSON (Minister for Small Business) — As I understand it, the Ombudsman must determine whether it is a public interest disclosure and it can then go back to the public office for investigation, but the actual determination as to whether it is a public interest disclosure has to be conducted by the Ombudsman.

Hon. R. M. HALLAM (Western) — I take the committee to exactly what clause 9 says. It poses the rhetorical question, 'Can a disclosure be made about past conduct?'. It reads:

> A person may make a disclosure under this Part about conduct that has occurred before the commencement of this section.

That is what raised the question in the first place, because my interest was as to how long before the section was enacted could an issue be raised. That was the basis of my question as to whether the statute of limitations applied to this particular facet of the law.

What the government has explained by way of response is that the bill enables the person to complain about past conduct, and that is an unqualified statement of fact. However, it offers us the protection and the qualification that this provision is qualified by clause 40. Clause 40 states that if a person knew about the disclosed matter for more than 12 months and fails to give a satisfactory explanation for the delay in making the disclosure, the Ombudsman may choose not to investigate.

What we are offered by the government is some sort of defence that there will not be an open-ended opportunity for people to go back 20 years and trawl through their past history. It further states that the bill provides for people to make complaints about past conduct because there was no protection given to people who feared the consequences of making such a complaint.

Hon. Jenny Mikakos interjected.

Hon. R. M. HALLAM — I have not finished.

The CHAIRMAN — Order! Honourable members will direct their comments through the Chair.

Hon. R. M. HALLAM — Thank you, Mr Chairman. What we want to know is why it would not follow as a matter of course that the Ombudsman would be persuaded by the rationale that the person could not make a complaint in the past because of the fear of retribution. I want something more than what is handed out here. This is too glib, Minister. There is nothing in what you have offered us that would preclude someone arguing strenuously that they were afraid of raising this question.

Hon. Jenny Mikakos interjected.

Hon. R. M. HALLAM — You are not helping.

The CHAIRMAN — Order! Through the Chair.

Hon. R. M. HALLAM — If you want to help just sit quiet while we get this issue stowed away because this is absolutely fundamental.

What the government has offered us is a defence that says the Ombudsman is able to ask for some sort of rationale for someone with a complaint more than

12 months old to explain why they did not take action. The government explains that this is some sort of defence for actions taken years and years before, that there would have to be a rational reason for that, and then offers us the open sesame that people would be protected in those circumstances if they feared retribution for disclosing the action.

I am looking for something better from the minister than what she has offered us to this point. There has to be something better than having the Ombudsman rely on this 12-month rule and the walk-up start that someone in those circumstances could rely upon by claiming that they were afraid to make the disclosure in the first place.

Hon. M. R. THOMSON (Minister for Small Business) — I should state that the Limitation of Actions Act of 1958 applies in relation to that; honourable members must be aware of that.

Hon. R. M. Hallam — What does that mean?

Hon. M. R. THOMSON — It means that if the time allowed under the statute of limitations for charges to be lodged has passed, those charges will not be able to be taken to court.

It is intended that when a matter that is exceptionally serious and worthy of being brought out into the open is over 12 months old, a determination by the Ombudsman of whether or not a satisfactory explanation has been given for the 12-month delay would be dependent on the person making the disclosures mounting a case to that effect. It would not be enough just to say, 'I was too frightened of retribution if I disclosed this'; the person would have to present a case as to why he or she was unable to present the disclosure before the 12-month period had elapsed.

Hon. G. W. JENNINGS (Melbourne) — I suggest that the additional factor that should be understood about this matter is that the public interest test the Ombudsman would apply would be similar for all cases that come before his office. The same test applies to public interest disclosures. Clause 40 provides an additional element of discretion for the Ombudsman in the time frame allowed for the provision of information by allowing him to determine whether there are grounds for the disclosure not being made earlier. One example could be that the protection was not in place at the time and that the person did not have sufficient cover.

Clause 40 is not the test; the test that applies under the act is exactly the same for any other public interest matter. Clause 40 provides additional discretion for the Ombudsman to determine whether there is justification for the case not proceeding earlier.

Hon. C. A. FURLETTI (Templestowe) — I preferred the minister's response, to tell you the truth.

Hon. R. M. Hallam — I did, too! That is what I was going to say.

Hon. C. A. FURLETTI — I am not too keen on the muddying of the water. This is another classic example of how the drafting can create a great deal of confusion. I would have preferred clause 40(2) to have been one of the exemptions to clause 9. That to my mind would have made a lot more sense.

However, for the purposes of the record and for the purposes of clarity, and to ensure that I understood what the minister said to the committee, did I understand her correctly to say that the statute of limitations applies to the making of disclosures with respect to conduct that occurred within a certain period of time, or does the statute of limitations not apply?

I see the advisers shaking their heads, so the statute of limitations does not apply. Is my understanding and the understanding of the opposition accurate in that under this clause the time for conduct is open ended and the discretion lies totally in the Ombudsman?

Hon. M. R. THOMSON (Minister for Small Business) — That is correct. The Ombudsman has the discretion to determine whether or not the matter is of a serious enough nature to warrant being included under the public interest disclosure. The statute of limitations relates to legal proceedings that may have been able to take place had a disclosure been made within that time, but cannot take place because the time allowed has elapsed.

Hon. C. A. FURLETTI (Templestowe) — I think we were there at the beginning, but you have muddied the water again. Again for the purposes of clarity, I ask the minister: the statute of limitations applies to the rights of a complainant who may have had a cause of action because of conduct taken by the person complained against, as I understand it; is that right? A yes or no will do.

Hon. M. R. THOMSON (Minister for Small Business) — The answer is yes.

Hon. C. A. FURLETTI (Templestowe) — Thank you; we will leave it there.

Hon. R. M. HALLAM (Western) — I thank the minister.

Clause agreed to.

Clause 10

Hon. C. A. FURLETTI (Templestowe) — I intend to move amendment 1, Mr Chairman, but with your indulgence I will first seek some answers to a couple of queries I have with respect to the clause as it stands.

I ask what the government's considerations were with respect to restricting the exemption to disclosure to legal professional privilege. The thought that occurred to me as I was considering this clause was that there are a number of other areas of privilege — for example, privilege in medical practitioners, privilege in Catholic priests in the confessional, and even parliamentary privilege — and I ask: what was the government policy behind restricting it to legal professional privilege?

Hon. M. R. THOMSON (Minister for Small Business) — Parliamentary privilege is certainly covered within the act. As I understand it, it is covered by clause 56(3), which covers the parliamentary privilege component.

Hon. C. A. FURLETTI (Templestowe) — What about medical privilege?

Hon. M. R. THOMSON (Minister for Small Business) — Medical privilege is also covered under clause 56(3).

Hon. Jenny Mikakos interjected.

The CHAIRMAN — Order! The minister has the call.

Hon. M. R. THOMSON — That clause reads:

> Subject to sub-sections (1) and (2) and section 55, a person cannot be compelled for the purposes of an investigation by the Ombudsman of a disclosed matter to produce any document or give any evidence that the person could not be compelled to produce or give in proceedings before a court.

Hon. C. A. FURLETTI (Templestowe) — I thank the minister. I will consider that and perhaps reserve my rights when we proceed.

I would like to address the committee on the grounds for the opposition's first amendment. The amendment is intended to put beyond all doubt the fact that, I assume, the government does not intend the privileges that exist with respect to members of this Parliament to be in any way, shape or form diminished or derogated from. The proposed amendment is very clear in saying that nothing in this act derogates from the privileges, immunities and powers held, possessed or enjoyed by custom, statute or other law or otherwise of the Parliament and every aspect and participant in the Parliament.

As was said by the shadow Attorney-General, the honourable member for Berwick in the other place, clause 10 is a benign clause which does not change the effect of the bill but rather clarifies it. I hear what the minister said with respect to clause 56(3), which I assume, if one were to read it far enough, would extend to parliamentary privilege. However, it is not clear, and nor is anything else in the bill clear on that point.

I would have thought that if the government were prepared to concede that the bill did not intend to in any way derogate from the parliamentary privilege which honourable members currently enjoy, it should have and would have accepted this amendment when it was put on the second reading of the bill in the other place.

The opposition considers it very significant that if there is any doubt, that doubt should be dispelled. As legislators we believe the drafting of legislation and its clarity are of prime significance, and it is on that basis that I move:

1. Clause 10, lines 1 and 2, omit all words and expressions on these lines and insert

"**10. Privileges of Parliament and legal professional privilege not affected**".

Hon. R. M. HALLAM (Western) — I welcome the opportunity to put the National Party's position on Mr Furletti's amendment. I do not claim to be expert in this field at all, but I was moved to ask the government and the minister to explain whether the inclusion of members of Parliament in this new framework would have any impact on parliamentary privilege. I have to say that I was not assuaged by the explanation provided by the minister, notwithstanding the fact that in the very first line the minister offers by way of response the statement that 'The inclusion of members of Parliament does not compromise parliamentary privilege'.

As it happens I was prepared for my party to go with that — that is a clear statement of effect — but on balance I have concluded that if there is a chance to put this issue beyond doubt we should do so. My reading of the amendment offered to the committee by Carlo Furletti is that it does no more than that: it simply says that whatever the background or the vibes that are involved, this amendment means there will be no impact whatsoever on the hard-won concept of parliamentary privilege. I believe this is absolutely fundamental, and it is on that basis that the members of the National Party will be supporting the amendment.

Hon. M. R. THOMSON (Minister for Small Business) — The government believes the matter is beyond doubt; in fact in relation to clause 56(3) it is quite clear. Parliamentary privilege is covered, and the government believes there is no doubt in relation to parliamentary privilege.

Amendment agreed to.

Hon. C. A. FURLETTI (Templestowe) — I move:

2. Clause 10, after line 2 insert —

"( ) Nothing in this Act derogates from the privileges, immunities and powers held, possessed or enjoyed by custom, statute or other law or otherwise of —

(a) the Parliament; and

(b) each House of Parliament; and

(c) the President of the Legislative Council; and

(d) the Speaker of the Legislative Assembly; and

(e) the members and Committees of each House of Parliament; and

(f) the joint Committees of the Parliament.".

Amendment agreed to.

Hon. C. A. FURLETTI (Templestowe) — I move:

3. Clause 10, line 3, before "Nothing" insert "(2)".

This amendment is consequential upon amendment no. 2.

Amendment agreed to; amended clause agreed to; clauses 11 and 12 agreed to.

Clause 13

Hon. C. A. FURLETTI (Templestowe) — I move:

4. Clause 13, lines 18 and 19, omit all words and expressions on these lines.

This amendment is consequential upon amendment 8 to clause 96, which removes reference to the Privileges Committee. There will be a number of consequential amendments arising from that. The bill provides for investigations to be referred to the Privileges Committee. As I alluded to in my contribution to the second-reading debate, the opposition opposes the establishment of the Privileges Committee as the appropriate investigator. Therefore, this amendment is consequential upon the substantive amendment.

Committee divided on omission (members in favour vote no):

Ayes, 14

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

Noes, 27

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

Amendment agreed to.

Amended clause agreed to.

Clause 14

Hon. C. A. FURLETTI (Templestowe) — Clause 14 is a significant provision in that it provides indemnity from either civil or criminal liability or any liability arising by way of administrative process, including disciplinary action, for making the protected disclosure.

The opposition is concerned that if a disclosure is made recklessly or vindictively there could be immunity from liability. As I read the provision, providing a disclosure is made under part 2, which refers to whom a disclosure can be made, immunity applies. Irrespective of the motive of a reckless or vindictive disclosure, or indeed, the truth of a disclosure, it would appear immunity would apply. Will the minister clarify that?

Hon. M. R. THOMSON (Minister for Small Business) — Protected disclosure relies on the fact that the Ombudsman finds there is a public interest disclosure. The lodging to seek whether there is a public interest disclosure must remain confidential because as soon as it is made public it is outside the bounds of the legislation. The provision protects those who have mounted a case that is a public interest disclosure from facing civil or criminal liability, or disciplinary action in relation to the public disclosure being made, which would put them at a disadvantage

from making that disclosure. The making of a case for public disclosure must remain confidential and should not be in the public arena.

Hon. C. A. FURLETTI (Templestowe) — Two separate issues arise: the first relates to the protected disclosure and the other to public disclosure. I note the minister suggests that a protected disclosure is not a protected disclosure until it is found to be a public interest disclosure, and that is also what I considered to be the case. Will the minister be good enough to direct me because, as I said earlier, the bill is convoluted. The definitions clause states:

> 'protected disclosure' has the meaning given to it by section 12.

Clause 12 states:

> A protected disclosure is a disclosure made in accordance with part 2.

Part 2 does not say much about protected disclosures. It says who can make a disclosure, to whom the disclosure can be made and that a disclosure can be made anonymously. That does not tell me what a protected disclosure is. I cannot see where in part 2 it says that the Ombudsman has to determine that it is a public interest disclosure. They are two different things. I am happy to take the minister's counsel on this.

Hon. M. R. THOMSON (Minister for Small Business) — I have said that immunity applies for public disclosure so long as the processes in the bill are followed — that there must be confidentiality surrounding the disclosure and the investigation. Should people go outside the legislative capacity of the act they will no longer be covered by immunity.

Hon. C. A. FURLETTI (Templestowe) — I can only proceed on what I read. What I read is that a person who makes a protected disclosure is not subject to civil or criminal liability or disciplinary action and derives immunity. Protected disclosure is defined in the definitions provision as something identified in clause 12.

Clause 12 refers me to something in part 2, and part 2 unfortunately does not tell me what a protected disclosure is. I do not see any reference. I understand the minister is referring to the public interest disclosure clause, and I understand what the Ombudsman has to do. The reason I am being somewhat insistent on a better answer is that protected disclosure is referred to throughout this part and is obviously a significant statement. If it is a matter of the Ombudsman having to determine it has a protected disclosure clearly we cannot know it is a protected disclosure until the end. It is not a disclosure that one can say at the outset is a disclosure covered by the bill. We can talk about the public interest disclosure later. What does protected disclosure mean as the bill is read?

Hon. M. R. THOMSON (Minister for Small Business) — Protected disclosure means that the person who makes a disclosure follows the processes under the bill. Therefore a limited number of people will have access to the information that is provided in relation to that disclosure. It is not a public disclosure if one follows the processes of the bill.

Hon. C. A. FURLETTI (Templestowe) — Perhaps the easiest way around this is for the minister to take me through that process.

Hon. M. R. THOMSON (Minister for Small Business) — The process is that one may lodge with either the public body or the Ombudsman.

Hon. C. A. Furletti — With reference to the bill please.

Hon. M. R. THOMSON — I am not quite sure what the honourable member is asking.

The CHAIRMAN — Order! Mr Furletti, an explanation if you will.

Hon. C. A. FURLETTI (Templestowe) — I am happy to. The minister says a public disclosure is a disclosure that is made in accordance with the provisions of the bill. I am asking the minister to take me through the provisions of the bill that make the disclosure a protected disclosure.

Hon. M. R. THOMSON (Minister for Small Business) — A person who seeks protected disclosure under the bill obtains that, so long as they go through the processes contained in the bill. That means if the Ombudsman determines the case is frivolous it goes no further, or if the public body determines that it is frivolous it goes no further. The matters that go to the Ombudsman or the public body are dealt with confidentially, and during the processes of dealing with the disclosure it is dealt with as outlined in part 2 of the bill.

Hon. C. A. FURLETTI (Templestowe) — What are the processes to which the minister is referring? My confusion arises from a definition which refers me to a clause in the bill and that clause refers me to a part in the bill. The part in the bill does little to tell me what a protected disclosure is. Perhaps the minister will take me through that part to assist me in understanding what a protected disclosure is.

Hon. JENNY MIKAKOS (Jika Jika) — Mr Furletti should have a cursory read of part 2 to which clause 14 is clearly linked. He has acknowledged through clause 12 — —

Hon. C. A. Furletti — I can read.

Hon. JENNY MIKAKOS — Unfortunately you are not understanding what you are reading.

The CHAIRMAN — Order! Through the Chair.

Hon. JENNY MIKAKOS — The process is clear. A natural person must have belief on reasonable grounds. That is the first part of the process. Clause 5 states:

> A natural person who believes on reasonable grounds that a public officer or a public body …

has engaged in improper conduct or detrimental action is required to disclose that conduct or action in accordance with part 2. That natural person, or the whistleblower if I can refer to them as a whistleblower, has to comply with the process contained in clause 6. That requires the whistleblower to make a disclosure orally or in writing in accordance with the prescribed procedure to the appropriate body.

Clause 6 requires that disclosure should be made either to the Ombudsman, to the relevant officer or to a public body. In some circumstances it requires a complaint to be made to the President of the Legislative Council, the Speaker of the Legislative Assembly or the Chief Commissioner of Police. Clearly the process is spelt out in part 2, and clause 14 should be read in conjunction with part 2.

Hon. M. R. THOMSON (Minister for Small Business) — The honourable member is correct.

Hon. C. A. FURLETTI (Templestowe) — Perhaps the clause should state, 'A person who makes a disclosure pursuant to part 2 shall have the indemnity'. Is that what you are saying? Is that right?

Hon. M. R. THOMSON (Minister for Small Business) — Part 2 certainly identifies who makes a protected disclosure. It is clear in part 2, and that is what a protected disclosure is.

Hon. C. A. FURLETTI (Templestowe) — To facilitate the rest of the committee and not to take up its time, protected disclosure is a common reference throughout this part of the bill. Protected disclosure means a person who makes a disclosure pursuant to part 2 of this bill, is that right?

Hon. M. R. THOMSON (Minister for Small Business) — That is correct.

Clause agreed to.

Clause 15

Hon. C. A. FURLETTI (Templestowe) — My comment with respect to protected disclosure has been answered.

Clause agreed to.

Clause 16

Hon. C. A. FURLETTI (Templestowe) — It is the same comment.

Clause agreed to; clause 17 agreed to.

Clause 18

Hon. C. A. FURLETTI (Templestowe) — I refer the minister to clause 18(3) and ask her to confirm government policy and the motive with respect to determining whether a person takes detrimental action pursuant to and in breach of the bill is relevant. In other words, as I read it, the reason referred to in clause 18(2) does not need to be dominant or substantial, so in real terms motive is irrelevant?

Hon. M. R. THOMSON (Minister for Small Business) — It has to be substantial.

Clause agreed to; clauses 19 to 21 agreed to.

Clause 22

Hon. C. A. FURLETTI (Templestowe) — I move:

> 5. Clause 22, lines 29 to 31, omit "the Privileges Committee of the Legislative Council or the Legislative Assembly,".

This is the same wording as amendment 4. It is consequential upon the substantive amendment to clause 96, which is amendment 8.

Hon. M. R. THOMSON (Minister for Small Business) — In relation to this issue, the government considers it important to match proceedings that occur under other acts in respect of parliamentary procedure. If a complaint is lodged against a member of Parliament now it goes first to the Presiding Officer, then to the Privileges Committee and then to the Parliament. The bill replicates that process of ensuring that the Presiding Officer deals with the matter first to determine whether it should go to the Privileges Committee — whether he or she believes there is some case that warrants the Privileges Committee looking at it. The first point of

decision making lies with the Presiding Officer in determining whether there is a matter that needs to be considered by the Privileges Committee.

I must say that members of the government have more faith in the Privileges Committee than perhaps members opposite do, and given the numbers in this chamber one may question that. Because these are very serious matters and because the complexion of Parliament changes from time to time, the government is of the opinion that the Privileges Committee would deal with the matters seriously on their merits. If a serious matter came before the Parliament the Privileges Committee would determine whether it needed to go to the Ombudsman. The Ombudsman would have to investigate the matter and determine whether it was a public interest disclosure. His determination on that would go back to the Privileges Committee for a decision on whether it needed to be referred back to the Parliament for investigation.

It is added insurance. It ensures that all the processes are gone through appropriately, that appropriate consideration is given and that not all of that process rests with one person. The provision has been included in the bill to build in insurance that will ensure we are dealing not with frivolous or vexatious matters but with serious matters, and to ensure matters are appropriately tested at all levels.

Hon. R. M. HALLAM (Western) — I thank the minister for her explanation, but it raises the question as to why the government has changed its position. I respect the veracity of the minister's argument, but the bottom line is that the government was arguing in exactly the reverse direction when the bill was first prepared and presented to the Parliament. My question to the government is: why did you conclude it was necessary to change tack and to remove the discretion that was previously intended to be retained by the Presiding Officers?

Hon. M. R. THOMSON (Minister for Small Business) — I did not take part in the debate in the other house. I do not believe the government had one position or the other but it was quite prepared to look at both and considered this a better model than the one in the original bill. I state again that from the government's perspective it is an additional insurance to ensure that proper mechanisms are gone through rather than limiting the number of people who may vet and determine matters.

Hon. R. M. HALLAM (Western) — Mr Chairman, I might be a bit slow, but my recollection is that when the bill was first presented to the Parliament it presumed that a reference in these circumstances to a Presiding Officer could be determined by that Presiding Officer — that is, it could be the Presiding Officer who determined that the issue was of sufficient seriousness to refer it to the Ombudsman. The amendments that were moved at the 11th hour actually changed that position. I understand what the minister is arguing now. I am interested to know what it was that convinced the government it should change tack, because that is the substance of the amendments proposed by the opposition.

Hon. M. R. THOMSON (Minister for Small Business) — I understand issues of concern were raised by members opposite — not in this chamber — and by some from other parts of the other chamber. They were concerned that there should be additional insurances included in the legislation to make sure that when we dealt with such matters as parliamentarians we dealt with them seriously — that we invested that in the Parliament. That is why the changes were made.

Hon. R. M. HALLAM (Western) — As a point of clarification, is the minister actually suggesting that the government's change of heart was designed to accommodate some criticism from conservative members of Parliament that it was somehow inappropriate for the Presiding Officers to have that discretion, and that we should remove that discretion? Is the minister suggesting that the government is responding to a claim from the other side of the house?

Hon. M. R. THOMSON (Minister for Small Business) — I am certainly suggesting that issues were raised as to whether we should be broadening the responsibilities for the serious decision-making processes. The government was prepared to listen to those concerns and responded to them.

Hon. R. M. HALLAM (Western) — For the record, let me say that as a member of this chamber I had not heard the suggestion that it was inappropriate to be relying upon the discretion of the Presiding Officers.

Hon. M. R. Thomson — I did not say it was inappropriate.

Hon. R. M. HALLAM — I am telling you I did not hear of it! I take it to be an absolute insult to the protocols of this place to imply that we could no longer rely upon the integrity of the Presiding Officers.

Hon. M. R. Thomson — I did not say that. I actually take offence at that.

Hon. R. M. HALLAM — I am pleased you do, as that shows you actually have some heart, Minister.

I am pleased that the minister takes offence at it because the effect of the government's amendments demonstrates that that is precisely what it intends. During the second-reading debate I said that in my time in this chamber I have grown to respect very highly the integrity of the Presiding Officers of this place, irrespective of their political leaning or the party which brings them here. We have been served very well for generations in that respect. For the government to now say there is somehow a hole in that process and that we should close that hole by referring these issues to a partisan Privileges Committee is the height of stupidity.

I will be supporting the amendment, as I am sure will my colleagues, that says in effect that the government might just have got it right the first time around and that it is quite appropriate for us to be relying in the first instance on the discretion of the Presiding Officers and not pretending that we can get a better outcome by sending the issues automatically off to a privileges committee to be determined. That is incredibly naive and I cannot believe the government does not have some sort of nefarious background motive to that. I invite the minister to explain again why the government saw it necessary to change tack in the depth of night.

Hon. M. R. THOMSON (Minister for Small Business) — I take great offence at the suggestion that members of the government hold the Presiding Officers in other than the greatest respect and do not regard those positions and the way the holders of them conduct themselves as beyond reproach. That is certainly not the position. What the government has done is mirror the process provided by section 16 of the Ombudsman Act, which allows for the Presiding Officer to hear a matter, then determine whether it should go forward to the Privileges Committee. That is the basis on which the decision was made. It is in no way a reflection on the Presiding Officers nor the way they conduct themselves as Presiding Officers. It is merely to ensure that the Parliament owns the process, that such matters are dealt with in the serious manner they deserve and that the process follows other processes in the Parliament.

Hon. R. M. HALLAM (Western) — Can I make the point for the purposes of explaining this to the committee: let it be very clear that the original bill provided that the Presiding Officers had the discretion to refer such matters directly to the Ombudsman.

Let us not have any of this claptrap, Minister, that there is no change in position. The original bill gave the Presiding Officers of this Parliament the discretion to refer these issues directly to the Ombudsman if they deemed them to be of sufficient seriousness. That provision has been changed, and at least we should be honest enough to recognise that change. The minister cannot smear this over; she has changed tack. Let us not pretend this is different from what it really is.

Hon. G. W. JENNINGS (Melbourne) — I suggest that Mr Hallam has been somewhat selective in his contribution in terms of the processes that apply within Parliament. He has ignored not only the evidence that the minister has put on the record with regard to aligning this provision with the provision that has existed since 1973 in the Ombudsman Act in dealing with these matters, but he has also ignored the standing orders that apply in both houses of Parliament to the procedures that apply to privileges matters to be dealt with in this place and in the Legislative Assembly. The privileges matters that are dealt with in this place can be referred to the Privileges Committee in both houses.

Hon. R. M. Hallam — So you got it wrong?

Hon. G. W. JENNINGS — Yes. The minister has said on the record that we got it wrong. The minister has indicated that the intent is to bring it into line with the standing orders and with the provisions of the Ombudsman Act. Unfortunately the minister has been trapped in the desire to extract a pound of flesh and in saying that the government has been prepared to amend the bill after consultation with and in consideration of the views that have been put by all sides of the Parliament on this matter.

Hon. C. A. FURLETTI (Templestowe) — I accept what the Honourable Gavin Jennings has indicated — that the government made a mistake in the first place. I point out to the committee what that mistake was. The mistake was that the Presiding Officers, men of discretion and integrity that they are, would have made decisions and referred matters without fear or favour of party politics. Having considered its initial draft, the government said, 'This is a bit dangerous. It could backfire on us'. That is the reason for the amendment. We certainly did see a change. The government said, 'We cannot allow somebody who is of integrity and is unbiased to make decisions of this nature, because the opposition is not at risk but our ministers and our cabinet could very well be'. So, there has been a conversion from a relatively pristine condition in some circumstances to a situation which became politicised to the nth degree.

I take issue with the minister that this is reflecting section 16 of the Ombudsman Act. The problem with the minister's statement is that there is no change to section 16 of that act. In fact, the old section 16 remains; the power of the Presiding Officer to refer matters to the Ombudsman remains. I have the act here

if the minister wishes to read it. The sole purpose is to protect the government through its control of the Privileges Committee.

Hon. JENNY MIKAKOS (Jika Jika) — I find the comments of the Honourable Carlo Furletti offensive. I believe all honourable members on this side of the house would regard it as extremely offensive to suggest that members of the government regard the President of this chamber as not being impartial.

Hon. C. A. Furletti — That is not what I said.

The CHAIRMAN — Order! Through the Chair.

Hon. JENNY MIKAKOS — That is what the honourable member was suggesting. I refer the honourable member to the current sessional orders and to the fact that it is a requirement for the President to refer any such matters to this house. So, if complaints were made it is highly likely that matters would be raised openly in the Parliament in this chamber, and that would then require a member of Parliament to deal with the matter only through a personal explanation.

The process proposed by the government will allow those matters to be heard in private in the Privileges Committee to ensure that party political matters and partisan matters do not unnecessarily besmirch the reputation of a member of Parliament. A matter will be referred to the Ombudsman only where the Privileges Committee feels that is warranted. That sensible process puts checks and balances in place to ensure that these matters are not unnecessarily raised in the house. The Privileges Committee would respect principles of natural justice, I would hope, in giving a member of Parliament a right to reply.

Hon. Bill Forwood — You would hope?

Hon. JENNY MIKAKOS — As Mr Forwood is well aware, the committee is dealing with an area that is very much untested. Members on the other side of the chamber who have the majority on the Privileges Committee would respect principles of natural justice. That is my point. The Honourable Carlo Furletti has completely misunderstood the intention of the provision in part 8 of the bill, which is intended to put in proper checks and balances.

Hon. M. R. THOMSON (Minister for Small Business) — Section 16(1) of the Ombudsman Act states:

> At any time —
>
> (a) the Legislative Council or a committee of the Legislative Council;
>
> (b) the Legislative Assembly or a committee of the Legislative Assembly; or
>
> (c) a joint committee of both Houses of Parliament —
>
> may refer to the Ombudsman for investigation and report any matter, other than a matter concerning a judicial proceeding, which that House or committee considers should be investigated by him.

I make it clear that under the Ombudsman Act the Presiding Officers do not have the power to refer a matter directly to the Ombudsman. A matter must go before the Privileges Committee or to the relevant chamber. The government is saying that the bill before the committee reflects that same process.

Committee divided on omission (members in favour vote no):

Ayes, 14

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

Noes, 27

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

Amendment agreed to.

Amended clause agreed to.

Clause 23

Hon. C. A. FURLETTI (Templestowe) — I move:

6. Clause 23, page 17, lines 33 to 25 and page 18, line 1, omit ", the Speaker of the Legislative Assembly, the Privileges Committee of the Legislative Council or the Legislative Assembly" and insert "or the Speaker of the Legislative Assembly".

I draw the committee's attention to the fact that amendment 6 is a consequential amendment similar to the amendment that has just been agreed to.

Amendment agreed to.

Hon. C. A. FURLETTI (Templestowe) — I move:

7. Clause 23, page 18, lines 4 to 7, omit ", the Speaker of the Legislative Assembly, the Privileges Committee of the Legislative Council or the Legislative Assembly" and insert "or the Speaker of the Legislative Assembly".

Amendment 7 is almost identical to amendment 6. It is consequential to the dominant amendment 8.

Amendment agreed to.

Amended clause agreed to; clauses 24 and 25 agreed to.

Clause 26

Hon. C. A. FURLETTI (Templestowe) — Will the minister briefly explain the reason for the Whistleblowers Protection Act being given priority over investigations conducted under the Police Regulation Act?

Hon. M. R. THOMSON (Minister for Small Business) — This clause means you will get coverage and protection under this legislation that you will not get under the Police Regulation Act 1958.

Hon. C. A. FURLETTI (Templestowe) — Thank you, Minister.

Clause agreed to; clauses 27 to 55 agreed to.

Clause 56

Hon. C. A. FURLETTI (Templestowe) — I refer to subclause (1) of clause 56 and seek an explanation from the minister on the effect of that clause on transactions entered into with the private sector and the common provision nowadays of commercial confidentiality. While I understand the bill affects only public bodies and public officers, if there is a contract between the Crown or public body or officer and a private third party, how would the bill impact on those confidential arrangements?

Hon. M. R. THOMSON (Minister for Small Business) — I believe in this instance if the matters in relation to private contracts are a part of that disclosure, they would be disclosed only to the Ombudsman and not to anyone else.

Clause agreed to.

Clause 57

Hon. C. A. FURLETTI (Templestowe) — I draw the minister's attention to clause 57, which provides that deliberations of ministers and parliamentary committees are not to be disclosed. This is part of the parliamentary privilege issue that we were discussing. I went fairly carefully through the clause and found that as a member of Parliament I personally did not fit into any of the categories. The clause mentions the deliberations or decisions of the cabinet and deliberations of a committee consisting of members of Parliament if that committee is formed to advise ministers, so I presume it protects government members. It protects deliberations in private of parliamentary committees under the Parliamentary Committees Act. It also protects committees consisting of members of Parliament established by resolution.

It appears to me that it will protect government members, but certainly not across the board. Can the minister explain the purpose behind that clause?

Hon. M. R. THOMSON (Minister for Small Business) — As I have said before, members of Parliament and parliamentary privilege are dealt with in clause 56(3). In relation to the deliberations of ministers and parliaments, the clause deals with cabinet confidentiality and where members may hear in camera in a parliamentary committee matters that are dealt with in that way. Clause 56(3) deals with the parliamentary processes and covers parliamentary privilege.

Clause agreed to; clauses 58 to 95 agreed to.

Clause 96

Hon. C. A. FURLETTI (Templestowe) — I move:

8. Clause 96, lines 8 to 10, omit "the Privileges Committee of the Legislative Council or the Legislative Assembly, as the case requires" and insert "Ombudsman for investigation".

In moving amendment 8 I refer the committee to the substantive amendment on the inclusion of the Privileges Committee interposed between the role of the Presiding Officers and the ultimate investigation by the Ombudsman. The committee has debated the impact of this amendment at length. I do not propose to debate the matter further. The committee is aware of the purpose of the amendment.

Amendment agreed to.

Hon. C. A. FURLETTI (Templestowe) — I move:

9. Clause 96, lines 11 to 28, omit all words and expressions on these lines.

Amendment 9 is consequential on amendment 8.

Amendment agreed to; amended clause agreed to.

Clause 97

Hon. C. A. FURLETTI (Templestowe) — I move:

10. Clause 97, lines 3 and 4, omit "the Privileges Committee of the Legislative Council or the Legislative Assembly" and insert "the President of the Legislative Council or the Speaker of the Legislative Assembly".

Amendment 10 is a consequential amendment effectively in the same vein as the previous amendments.

Amendment agreed to; amended clause agreed to.

Clause 98

Hon. C. A. FURLETTI (Templestowe) — I move:

11. Clause 98, lines 22 and 23, omit "the Privileges Committee of the Legislative Council or the Legislative Assembly" and insert "the President of the Legislative Council or the Speaker of the Legislative Assembly".

Amendment 11 is identical to amendment 10.

Amendment agreed to; amended clause agreed to.

Clause 99

Hon. C. A. FURLETTI (Templestowe) — I move:

12. Clause 99, lines 28 to 30, omit "the Privileges Committee of the Legislative Council or the Legislative Assembly" and insert "the President of the Legislative Council or the Speaker of the Legislative Assembly".

Amendment 12 is consequential on the substantive amendment and is identical to other amendments.

Amendment agreed to; amended clause agreed to; clause 100 agreed to.

Clause 101

Hon. C. A. FURLETTI (Templestowe) — I move:

13. Clause 101, lines 9 to 11, omit "the Privileges Committee of the Legislative Council or the Legislative Assembly" and insert "the President of the Legislative Council or the Speaker of the Legislative Assembly".

Amendment 13 is a consequential amendment to the substantive amendment.

Amendment agreed to.

Hon. C. A. FURLETTI (Templestowe) — I move:

14. Clause 101, lines 12 to 15, omit all words and expressions on these lines.

Amendment 14 is a consequential amendment to clause 101.

Amendment agreed to; amended clause agreed to.

Clause 102

Hon. C. A. FURLETTI (Templestowe) — I move:

15. Clause 102, page 57, lines 8 to 10, omit "the Privileges Committee of the Legislative Council or the Legislative Assembly" and insert "the President of the Legislative Council or the Speaker of the Legislative Assembly".

I am pleased to report that amendment 15 is the last amendment. I take the opportunity of thanking the minister for her frank answers.

Amendment agreed to; amended clause agreed to; clauses 103 to 119 agreed to.

Reported to house with amendments.

Report adopted.

Third reading

The PRESIDENT — Order! As I am of the opinion that the third reading requires to be passed by an absolute majority of the whole of the numbers of the house, I ask the Clerk to ring the bells.

Bells rung.

Members having assembled in chamber:

The PRESIDENT — Order! So that I may be satisfied that an absolute majority exists, I ask honourable members supporting the motion to rise in their places.

Required number of members having risen:

Motion agreed to by absolute majority.

Read third time.

Remaining stages

Passed remaining stages.

BUSINESS OF THE HOUSE

Adjournment

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

That the Council, at its rising, adjourn until Tuesday, 22 May.

Motion agreed to.

ADJOURNMENT

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

That the house do now adjourn.

Housing: loan schemes

Hon. W. I. SMITH (Silvan) — I raise a matter for the Minister for Housing, through the Minister for Industrial Relations. When the government came into office it promised to undertake a review of the home opportunity loan scheme. A constituent who came to see me about that scheme is in a desperate situation. In 1988 she took a 13-year loan for public housing and borrowed $48 000. At 28 February she owed $46 823, even though she has paid $30 000 to date. She is a widow on an age pension and is extremely worried about losing her house. She was told by the then government in 1988 that it would guarantee she would never need to worry about that. She came to me because she is extremely worried. She stated that there are thousands of people in this scheme, that some had already lost their homes and that some are still paying the loans off to the ministry of housing.

When the Bracks government came to power it promised to undertake a review of the scheme. I ask the government what it is doing to assist people who have equity in their homes and who are attempting to pay off ministry of housing loans, to ensure they can continue in their current accommodation and to alleviate their fears of losing their homes.

Electricity: winter power bonus

Hon. D. G. HADDEN (Ballarat) — I raise a matter with the Minister for Energy and Resources, as the representative of the Treasurer in the other place, regarding the important issue of the winter power bonus.

I have received many inquiries from constituents regarding the $60 winter power bonus that applied to all household and small business electricity customers from the winter of 1998 and which was introduced by the former Kennett coalition government. I ask the minister to advise whether the bonus will be continued this winter.

Albury-Wodonga: amalgamation

Hon. W. R. BAXTER (North Eastern) — I ask the Leader of the Government to raise with the Premier the announcement made in Albury-Wodonga by the Premier at the end of March that it was the government's intention to amalgamate the cities of Albury and Wodonga. I should say as an aside that that astounding announcement was made without any consultation at all with local councils, which flies directly in the face of Labor's policy of no forced amalgamations.

The Albury and Wodonga councils have considered the matter. Although they are prepared to have the proposal examined closely and support the appointment of Mr Ian Sinclair as the chairman of the consultative committee, they are both keenly of the view that amalgamation should not proceed without a referendum of the people of the two cities.

They are quite prepared for that referendum to be delayed until the working party reports to Mr Sinclair's consultative committee. They have sought an assurance from the Premier that a referendum would be held. This week they received a reply from the Premier, which states:

> We are open to the idea of a community-based poll on the proposal of a merger. We will recommend to Ian Sinclair to consider and advise on the use of such a poll to gauge public sentiment on the final proposal that emerges for the consultation.

Why is the Premier dissembling? Why does the Premier not say yes or no to a referendum rather than beating around the bush? If he wants the proposal to proceed he will need to give the people of Albury-Wodonga a chance to pass some judgment on it. I ask the Premier to give that commitment to the councils and people of Albury-Wodonga because they are most concerned about the fact that he is beating around the bush.

Weeden Heights Primary School

Hon. B. N. ATKINSON (Koonung) — I direct a matter to the attention of the Minister for Sport and Recreation as the representative of the Minister for Education in another place. The Weeden Heights Primary School in Weeden Drive, Vermont South, has been undergoing renovations and new classrooms are being added through a contract let by the department last year.

The department accepted the lowest tender, which was some $200 000 less than the next lowest tender. Unfortunately, the school's parents committee has found out why. The contractor is now refusing to do quite a range of works at the school which would reasonably be expected to be part of the upgrade.

Walls are not to be painted, nor are metal stanchions that are part of the project for the construction of new

classrooms. Corridors within the school will not have floor coverings despite the fact that they provide immediate access to classrooms.

I ask the minister to have a close look at the school and the budget, and provide additional funds so the school may be properly completed in the interests of the students. The school has waited quite some time for the works to be done. I hope the minister will do that quickly.

Melbourne Knights Soccer Club

Hon. S. M. NGUYEN (Melbourne West) — The matter I raise for the attention of the Minister for Sport and Recreation concerns the recent unfortunate events at a soccer match involving the Melbourne Knights Soccer Club, which have brought unfair media attention on the club. I was present at the match with other honourable members. It is regrettable that the soccer club has borne the brunt of negativity over the event. I know the club does a lot of great work in the local community to promote involvement in sport and recreation.

Melbourne Knights has 10 junior teams and 2 youth teams. Most honourable members would have heard of Mark Viduka and Danny Tiato, both of whom play on the world soccer stage; they were or are local players who came through the Melbourne Knights club.

The club is involved in work for the Royal Children's Hospital, the Austin and Repatriation Medical Centre and Open Family Australia. The demand for player clinics is so high that it cannot meet all the requests from local schools. It provides opportunities for local students to do work experience and to work with disabled children to improve their quality of life.

Melbourne Knights plans to promote Victorian soccer by playing tournaments in China and Vietnam in the near future. In return, it will invite its overseas hosts to play matches in Victoria. I know of its work first hand. It would be a tragedy if the Melbourne Knights Soccer Club were disadvantaged by recent events over which it had no control. Will the minister comment on recent events involving the soccer club?

Moira Health Care Alliance

Hon. E. J. POWELL (North Eastern) — I direct a matter to the attention of the Leader of the Government, representing the Minister for Health in the other place. The issue concerns a lack of funds for aged care services in my electorate. I refer to an article in the *Cobram Courier* of 16 May 2001 under the heading 'Aged in health crisis'. It states:

> A Cobram woman who was told she would have to wait months to receive Meals on Wheels because of a funding crisis is now in hospital.
>
> Moira Health Care Alliance implemented waiting lists at the start of the month for all new clients requiring Meals on Wheels, home care, property maintenance and planned activity group services.
>
> Alliance manager Steve Doran said the organisation was forced to introduce waiting lists after requests for funding increases were denied by the state government.
>
> The alliance had been providing more than 3000 meals and more than 7000 hours of home care a year above the level it was funded for.
>
> Cobram's Dorothy Scobie —

who is 94 years of age and the lady now in hospital —

> applied for Meals on Wheels about three weeks ago after her failing eyesight reached a point where she could no longer operate a kitchen hotplate.

Her daughter, who now lives in Sydney, returned to Cobram and asked Moira Health Care Alliance to place her mother on a waiting list. They said no funds were available for her.

The budget contains new key initiatives to be introduced by the government to deliver improved services. I notice in the budget documents that $25 million is targeted towards enhancing a wide range of community support services available to people and their carers, and a further $7 million for new initiatives to improve service provisions for older Victorians.

I ask the minister whether some of the government's new initiatives could be used or the current funding that the organisation receives to cover the shortfall in funding for services provided by Moira Health Care Alliance and provide appropriate funds to allow the service to continue its services appropriately. Then the instance of an elderly lady being forced to enter hospital before the issue is brought to attention should not happen again.

Waverley Park

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — The matter I raise for the attention of the Minister for Energy and Resources, who is the representative in this place of the Minister for Local Government, relates to the matter I wrote to the minister about last year, when I asked him to investigate the circumstances surrounding the City of Greater Dandenong's spending $250 000 million on obtaining heritage listing for Waverley Park. I asked the minister to investigate whether in his view the council was in breach of the Local Government Act.

In his response the minister said that section 6(1)(c) of the act provides that a purpose of a council is:

> to provide equitable and appropriate services and facilities for the community and to ensure that those services and facilities are managed efficiently and effectively.

The minister was of the view that the council had acted appropriately.

We have now moved some way forward from that time and we have a situation where Waverley Park is sitting disused, derelict, run-down and vandalised and is not providing any service or facility to the ratepayers of the City of Greater Dandenong. I therefore ask that the Minister for Local Government revisit this issue and reflect on whether the City of Greater Dandenong has now acted in accordance with the Local Government Act or is in breach of it.

Here for Life program

Hon. B. W. BISHOP (North Western) — I direct a matter for the attention of the Minister for Small Business, who is the representative in this place of the Minister for Community Services. In a letter to me, Andrew Kay, the executive director of Here for Life, asks what type of action people want taken to help prevent drugs destroying the lives of our next generation. He talks about the message that came from the drug summit that there was a need for greater focus on education and prevention with primary and secondary school students. In fact, in 1997 Here for Life conducted research with 2000 young people around Victoria asking who has the greatest impact on them with a drug prevention message. A very common response from those young people was that those who have the greatest impact on them are young role models to whom they can relate.

In 2000 Here for Life recruited 65 players from all 10 Victorian AFL clubs, Netball Australia players and gold medal Olympians. These professional athletes are trained in running a workshop with children, facilitating discussion on self-esteem, the importance of talking about problems, having goals and dreams, and why they should say no to drugs. The players leave with the class teacher a six-week lesson plan which includes a video, teacher manual and student workbook. After the school session, students visit the Life's a Ball web site to get more information and even talk with an AFL player in the chat room. According to independent evaluation the program is changing kids' attitudes towards drug use.

In the time between 2001 and 2002 Here for Life is hoping to visit every primary and secondary school in Victoria with this program. It says it receives no state government funding and cannot grow the program unless it receives that sort of assistance. There is no doubt the organisation is committed to ensuring the next generation of Victorian children stays drug free, and it believes its Life's a Ball program is doing that.

I ask whether the minister can find some financial support for this worthwhile organisation, which is committed to a drug awareness program for Victoria's young people.

Regional Infrastructure Development Fund

Hon. N. B. LUCAS (Eumemmerring) — I direct to the attention of the Minister for Energy and Resources, who represents the Minister for State and Regional Development in another place, the funding of interface councils. In terms of categorisation the Shire of Cardinia is neither one thing nor the other. Eighty per cent of its area is devoted to primary production; 36 per cent of its population is classified as residing in rural areas; it encompasses myriad small towns; it has a population concentration of 34 people per square kilometre — compared with 327 people per square kilometre in the metropolitan area — and it has the richest agricultural land in the state, but it is not actually classified as a rural council under the Regional Infrastructure Development Fund. That is the matter I raised in the debate on 8 December 1999, when I said:

> I do not agree with it being excluded from this list.

It is a fact that the lower house has recently considered the issue of dairy farm crossings. I am not allowed to quote from that debate, but I am able to say that the Minister for Agriculture indicated there was an anomaly in that there could be no funding under that act for a dairy farmer within the Shire of Cardinia. Similarly, the shire has the third fastest growing community in Victoria and also needs to attract funding because of its situation as an interface council similar to Wyndham, Whittlesea and Casey. So on the one hand it is not rural but on the other hand only a part of it is actually a metropolitan growth corridor area.

I ask the minister to consider broadening the review of the Regional Infrastructure Development Fund foreshadowed by him in the other place on 2 May. I ask that consideration be given, firstly, to including the Shire of Cardinia in the schedule to that act which describes rural councils; and, secondly, to give consideration to the establishment of a metropolitan interface fund to provide specifically targeted funding for growth councils — including the City of Casey, the Shire of Cardinia, the City of Wyndham and the City of Whittlesea — to assist with the provision of necessary

community infrastructure such as roads, kindergartens, social amenities and all the other varieties of infrastructure that growth councils find difficult to provide as their communities expand rapidly.

Drugs: Wimmera rehabilitation centre

Hon. R. M. HALLAM (Western) — I raise with the Minister for Industrial Relations, who represents the Minister for Health in the other place, an issue raised in a letter addressed to me by Mr Shade, the chief executive officer of the Horsham Rural City Council. The issue relates to the Palm Lodge Rehabilitation Centre for drugs, alcohol and other services that it provides in the Wimmera. Mr Shade explains that the council is becoming increasingly concerned about the problems facing the centre and the possible loss of services it provides to Horsham and the wider Wimmera area.

The centre is experiencing financial difficulties and has held numerous discussions with the Department of Human Services, which undertook a review of its operations and financial situation. Mr Shade also reports that in an earlier statement the Palm Lodge Rehabilitation Centre board advised that the current funding for the centre would be exhausted by the end of the 2001 calendar year and that an urgent resolution of the financial difficulties being faced by the lodge was required. Mr Shade goes on to report that the council is increasingly concerned that no resolution of this matter has been achieved.

I ask the minister to seek the assurance of her colleague in the other place that this important facility can anticipate continuing government support and the opportunity to maintain the critical services it is providing to the Wimmera region.

School Focused Youth Service program

Hon. M. T. LUCKINS (Waverley) — I raise an issue with the Minister for Small Business, who represents the Minister for Community Services in the other place. In question time today the Minister for Youth Affairs referred to the School Focused Youth Service program in Seymour. In September last year I raised concerns about the future of the program.

The City of Monash was funded by the previous government to run this successful program for three years. It has received $120 000 a year to operate a program that provides linkages for school students to local community counselling and other services they require. The program works with 63 local government, Catholic and independent schools and has been successful in achieving outcomes for young people. However, there is some uncertainty about its continuation. When I raised this issue earlier I was informed by the minister that the funding regime would be outlined early this year. Although budget paper 2, the 2001–02 budget statement, refers to the program at page 89, and it is also referred to in the community building section of the overview document, no budget allocation has been made for the continuation of the program.

The City of Monash is concerned about the future of the program and is finding that experienced youth workers are leaving due to the uncertainty of their employment. They have sought answers from the department, but no answers are forthcoming. I ask the minister to outline the government's plans for this successful program and provide specific answers on application criteria and procedures for the continuation of the program, if it is to continue.

Rural Victoria: neighbourhood environment improvement plans

Hon. P. R. HALL (Gippsland) — I raise with the Minister for Energy and Resources, as the representative of the Minister for Environment and Conservation in the other place, a matter concerning the Environment Protection (Liveable Neighbourhoods) Bill that was debated and passed by this chamber in the last week of the spring sitting last year. A key issue in the bill was the establishment of local committees to formulate neighbourhood environment improvement plans.

It was my understanding that neighbourhood environment improvement plans would be used to address environmental issues in urban areas rather than rural areas. Since the passage of the bill it has been brought to my attention that it is possible the improvement plans may be used to formulate a response to activity by primary producers, and thus in effect sit in judgment on a person's right to farm.

I seek an assurance from the minister that the provisions contained in the act will not be used to set up committees to make judgments on the legitimate farming operations of primary producers.

Somerville secondary college

Hon. R. H. BOWDEN (South Eastern) — I seek the assistance of the Minister for Sport and Recreation, as the representative of the Minister for Education in the other place. I refer to an important community issue in my electorate that I raised during the adjournment

debate on 25 October last year. The issue has caused considerable community disquiet in the Somerville, Tyabb and Pearcedale areas because it concerns the possibility of the sale of land that was reserved several years ago as a site for a future Somerville secondary college.

After I raised the issue last year I received a letter from the Minister for Education stating that a committee was finalising the report. Although that report has been finalised there is continuing community disquiet because in the early part of this year the committee established by the department appeared to recommend that the land be sold. That position is unacceptable.

The Honourable Ken Smith presented a petition to Parliament bearing a substantial number of signatures concerning the same issue. I want to inform the minister of the strong feeling in the area about the issue. Today my electorate office contacted a regional officer of the department and was told that the land was still short-listed for disposal, that no decision had been made but that it was most unlikely that the proposed secondary college would proceed on that site.

I request that the matter be treated urgently. It is a significant issue in a substantial part of my electorate, particularly as funding has been made available for secondary colleges considerable distances from Somerville. The community does not want the land to be sold, and tens of thousands of people in my electorate are getting very upset about it.

Will the department make a clear statement that the land will not be sold?

Sidney Myer Music Bowl

Hon. ANDREA COOTE (Monash) — I raise a matter with the Minister for Industrial Relations, who is the representative in this house of the Minister for the Arts. Last night I asked a question about the Sidney Myer Music Bowl. As a member for Monash Province I am interested in gaining the details of this project and how it will continue to be one of Melbourne's leading outdoor entertainment venues. The project was initially to cost $18.5 million, but there has been a significant delay. I am led to believe the unions are causing an embarrassing delay and it is therefore fair to assume that the cost has increased above $18.5 million.

What has been spent on the project thus far, and is this in line with the initial project costs that were produced prior to the union upheaval?

HIH Insurance: health practitioners

Hon. J. W. G. ROSS (Higinbotham) — I refer the Minister for Consumer Affairs to the issue I raised with her on 4 April on the collapse of HIH Insurance and the fact that certain health practitioners were required by the Victorian government, as a condition of their professional registration, to carry professional indemnity insurance. I indicated that because of the collapse of HIH the registration status of many of these health practitioners was in jeopardy and asked if she had advised the Minister for Health of the problem.

Can the minister now, some six weeks later, give the house an assurance that she has made the necessary inquiries and that the registration of health practitioners who carried HIH professional indemnity insurance in Victoria is absolutely secure?

Natural Resources and Environment: cooling towers

Hon. G. R. CRAIGE (Central Highlands) — The matter I raise with the Minister for Energy and Resources, which also involves the Minister for Environment and Conservation, refers to staff at 240 and 250 Victoria Parade when legionella tests were carried out in the buildings in which the minister has responsibility for the staff. On 23 March when those tests were carried out a high count of legionella was found in both cooling towers.

That advice was received by the Department of Natural Resources and Environment (DNRE) at 4.00 p.m. A message was sent to staff advising them that further tests would be conducted on that day but that the results would not be available for the next seven to nine days. That advice was circulated to staff after the DNRE was advised at 4.00 p.m. At 6.30 p.m. on 23 March staff were advised that positive results were found in the two cooling towers at 240 and 250 Victoria Parade. That was after they had left to go home.

On the Monday morning a further notice was sent to staff advising them that they did not have to come to work. That advice was given to staff at 9.55 on the Monday morning. As the minister is responsible under the Occupational Health and Safety Act for the staff working directly under her, when did she know the results of those tests, when were the tests carried out and what precautions were put in place to protect staff working in that building?

Electricity: national market

Hon. C. A. STRONG (Higinbotham) — I raise a matter with the Minister for Energy and Resources about the national electricity market, in particular the New South Wales electricity tariff equalisation fund about which the minister is probably aware, and especially the New South Wales government's instructions that its generators are to sell only through this fund which, in effect, takes them out of the competitive national electricity market. The net result is that the largest generating capacity in Australia has been withdrawn from the competitive market. Clearly that has had an effect on the price of electricity throughout south-east Australia and, in particular, Victoria.

I am advised, and the minister is probably aware, that contracts that are being written for 2002 are currently 20, 30 or 40 per cent in excess of those that were written for the current year and will undoubtedly flow through to rate increases of probably 20 per cent to consumers.

For the benefit of all electricity consumers in south-east Australia, and in particular Victoria, will the minister actively pursue with the Australian Competition and Consumer Commission the anticompetitive nature of the New South Wales electricity tariff equalisation fund and the instructions of the New South Wales government to its generators to use that fund? This practice is clearly contrary to the ACCC's rules. It would be of advantage if the minister pursued the matter with the ACCC.

Consumer affairs: home relocations

Hon. K. M. SMITH (South Eastern) — The matter I raise with the Minister for Small Business, who is the representative in this house of the Attorney-General, concerns the serious issue of a shonky builder and his wife who have conned a number of people into paying out good money to move and relocate older style homes. The builder is registered with licence number DBL1412 and currently has approximately 10 to 12 clients who have paid him for work.

The builder and his wife are Werner and Joan Piechatschek of 35 Shenandoah Drive, Coronet Bay, trading as 1st Central Victorian Home Relocations. The young couple who raised the issue with me have paid $75 000 of a $89 000 contract with 20 per cent of the work having been done on this place and about 85 per cent of the money having been advanced to the builder, which is a serious breach of contract law. The works that have been carried out on the house are extremely defective. A check has been done, and it showed that tens of thousands of dollars over the original cost will be needed to rectify the works to complete the building and achieve a completion certificate.

Mr Piechatschek and his company have a number of legal judgments against them, and I ask the Minister for Small Business to inquire as to why Mr Piechatschek has been able to continue as a builder with legal judgments against him going back to 1988. I ask the minister to also investigate a Mr Eric Karslake and a new company that Mr Piechatschek — —

The PRESIDENT — Order! One matter.

Hon. K. M. SMITH — It is the same business; they are involved in the same business and have formed another company. Mr Piechatschek has formed a company called Classic Period Homes Pty Ltd with Mr Karslake. I would like the minister to investigate possible breaches of contract law by Mr Piechatschek and his wife. It is difficult enough for young people to get started on buying their first home without this type of rip-off. I would like the minister to investigate this matter and see whether the Attorney-General may take some action against Mr Piechatschek and his wife.

Public sector: industry participation policy

Hon. BILL FORWOOD (Templestowe) — I have an issue I wish to raise with the Minister for Energy and Resources and her colleague the Minister for State and Regional Development in the other place. I wish to raise the issue of the Victorian industry participation policy (VIPP), which was recently announced by the government. As a brief aside I should say that 20 years ago I was an industry officer and at meetings prior to meetings of industry ministers we actively worked on the abolition of state preference schemes across all jurisdictions.

I was interested in the policy that was announced. It indicates that short-listed bidders for public sector projects valued at more than $3 million in Melbourne and $1 million in country Victoria will be required to provide a VIPP statement and that it will be mandatory for preferred bidders to consult with the Industrial Supplies Office or the Department of State and Regional Development on local industry participation in projects valued at more than $50 million. I am very interested in how this scheme will work. If there are guidelines on how it will operate, I would like to see them.

It seems to me that there is an issue about the weighting that will be applied in the allocation of both the small and large contracts — both the $3 million and the

$1 million and the ones for over $50 million. That is important, but I would also like the government to address the issue of whether the minister anticipates that this scheme will lead to replication by other states — in other words, will we get back into the cycle we got rid of 20 years ago when we abolished state purchasing preference schemes?

Hon. J. M. McQuilten — We didn't get rid of them 20 years ago.

Hon. BILL FORWOOD — Well, we started 20 years ago.

Commonwealth Games: lawn bowls venue

Hon. D. McL. DAVIS (East Yarra) — My adjournment issue is for the attention of the Minister for Sport and Recreation. The house will be familiar with the Box Hill Bowling Club in the City of Whitehorse and the fact that it was a potential host for the 2006 Commonwealth Games lawn bowls as the Labor government promised to put the state bowls centre for those games in the eastern suburbs of Melbourne.

Hon. W. R. Baxter — A broken promise.

Hon. D. McL. DAVIS — A broken promise indeed. I refer to the *Whitehorse Journal* and a report on the visit last week of the Minister for Sport and Recreation to the Box Hill Bowling Club. Unfortunately I was not able to be there, but my colleague the honourable member for Box Hill in another place and the executive officer of the club were there.

They are thankful for the fact that the minister was prepared to meet with them and attempt to explain why the club and the City of Whitehorse will not be hosting the Commonwealth Games lawn bowls in 2006. Judging by the article in the *Whitehorse Journal* I do not believe the club was very happy with the explanation the minister gave. The club was prepared to question the minister about a number of matters in his department and the Department of Infrastructure.

The Labor Party promised to locate the international bowling venue in the eastern suburbs of Melbourne. I note that on page 307 of budget paper 3 there is an output measure which states that construction works will not be commenced at the government's proposed site in the City of Darebin until 2002. Will the Minister for Sport and Recreation reconsider his decision? Would he be prepared to work with the City of Whitehorse and the Box Hill Bowling Club towards a solution that would honour Labor's election promise and place the bowls centre in the eastern suburbs of Melbourne or will he persist with the Labor Party's position and finally close the door on the prospect of the City of Whitehorse hosting the 2006 Commonwealth Games lawn bowls?

Rowing: Barwon River upgrade

Hon. I. J. COVER (Geelong) — I too have a matter for the Minister for Sport and Recreation, and it can also be found on page 307 of budget paper 3. I arrived at this item as I trawled through the budget papers trying to find some good news for Geelong.

Honourable members interjecting.

Hon. I. J. COVER — Indeed, as the *Geelong Advertiser* reported today Geelong has been short-changed in the budget. That is merely the view of the *Geelong Advertiser*.

I found at page 307 of budget paper no. 3 a reference to the water sports study, which has some relevance to Geelong. Under the headings 'Target' and 'Expected outcomes' for the year 2000–01 it has a notation that it was completed in April 2001. That is a great result, given that the minister was ordered to conduct the study in November 1999, some 18 months ago! I wonder whether we will have to wait as long for the publicising of the findings of the study. I certainly hope not and neither does the Geelong community, in particular the rowing fraternity. We have lost the Associated Public Schools Head of the River regatta, and the Schoolgirls Head of the River regatta is under threat.

Hon. R. F. Smith interjected.

Hon. I. J. COVER — It is a very important event in Geelong, Mr Smith. I trust you do not have the same disdain for your own electorate as you are demonstrating for the electorate I represent, along with your colleague in the back row — where you belong and will stay for as long as you are in this house!

The findings of the water sports study and an application by the City of Greater Geelong for an upgrading of the Barwon River are critical to the future of the Schoolgirls Head of the River regatta — an event that Mr Bob Smith obviously does not support — and the ability to attract new events to Geelong. Will the minister indicate when he will release the water sports study, given that according to budget paper no. 3 it is completed, with a view to letting the Geelong community know where it stands in relation to the upgrade of the Barwon River?

Responses

Hon. M. M. GOULD (Minister for Industrial Relations) — The Honourable Wendy Smith raised for referral to the Minister for Housing the home opportunity loan scheme on behalf of either one of her constituents or someone who raised it with her — I am not sure. I will raise that with the minister and ask her to respond in the usual manner.

The Honourable Bill Baxter raised for referral to the Premier the announcement that was made about Albury–Wodonga. I will ask the Premier to respond in the usual manner.

The Honourable Jeanette Powell raised for the Minister for Health an issue regarding sufficient funding for the home and community care program. I will ask the minister to respond to her in the usual manner.

The Honourable Roger Hallam raised a matter that had been raised with him by the chief executive of the Rural City of Horsham about the Palm Lodge Rehabilitation Centre. I will ask the minister to respond to him in the usual manner.

The Honourable Andrea Coote raised a matter for the Minister for the Arts, and I will ask her to respond to the honourable member in the usual manner.

Hon. C. C. BROAD (Minister for Energy and Resources) — The Honourable Dianne Hadden raised the winter power bonus. In response I refer the honourable member to budget paper no. 2 of 1999–2000, which I believe was the last budget delivered by the former Treasurer, Alan Stockdale. At page 39 that paper contains a very clear statement under 'Major one-off or discontinuing payments'. Winter power bonus payments for 2000–01 are shown as $117.3 million, for 2001–02 as 0.0 and for 2002–03 as 0.0.

The facts are that the winter power bonus was a windfall gain from the proceeds of privatisation. It was effectively a bribe by the Kennett government to try to get the people of Victoria to accept privatisation of the electricity industry.

Honourable members interjecting.

Hon. C. C. BROAD — It was not a concession. It was paid to all Victorians regardless of their financial means. The budget papers I have referred to make it quite clear that the Kennett government was not intending to — —

Honourable members interjecting.

Hon. C. C. BROAD — The Honourable Gordon Rich-Phillips requested that the Minister for Local Government examine whether the City of Greater Dandenong is acting in accordance with the Local Government Act. I will refer that to the minister.

The Honourable Neil Lucas requested that the Minister for State and Regional Development consider including the Shire of Cardinia in the schedule of rural councils and certain other matters. I will refer those to the minister.

The Honourable Peter Hall sought an assurance from the Minister for Environment and Conservation that provisions in the Environment Protection (Liveable Neighbourhoods) Act will be not be used to in effect infringe on the right to farm. I will refer that matter to the minister.

The Honourable Geoff Craige raised a number of matters related to the discovery of legionella at 240 and 250 Victoria Parade earlier this year. I can indicate that I was made aware in general terms of that occurrence by the Secretary to the Department of Natural Resources and Environment, Ms Chloe Munro, who took very strong responsibility for following through on all matters to do with that occurrence. I have every confidence in the steps she took to manage that situation.

The Honourable Chris Strong raised matters of which I am indeed aware in relation to the establishment by the New South Wales electricity industry of an equalisation fund following certain events which resulted in New South Wales generators being somewhat overexposed in the electricity market.

Following those events I have encouraged anyone who has information and has the view that these matters should be pursued through the Australian Competition and Consumer Commission (ACCC), in line with other statements that have been made where people believe actions are occurring in the national electricity market which may be counter to the rules, to pursue them with the commission. In all those instances the position of the Victorian government, and me as the responsible minister, is that if those issues arise they should certainly be pursued by the ACCC. To date I have not been provided with and I am not aware of information that would back up an ACCC action. I am sure the commission is keeping a close watching brief on these matters.

The Honourable Bill Forwood raised matters for the Minister for State and Regional Development in the other place with regard to the Victorian industry

participation policy. I will refer those matters to the minister.

Hon. M. R. THOMSON (Minister for Small Business) — The Honourable Barry Bishop raised a matter for the Minister for Community Services. I will check who is the appropriate minister to deal with the Here for Life organisation, which runs a program on drug prevention through the school system. The organisers are keen to trial a visitation program in all primary and secondary schools and ask whether the minister will be able to find some funding support for the program. I will pass the request on to the minister for a direct response.

The Honourable Maree Luckins raised a matter for the Minister for Community Services with regard to the school-focused youth services and whether the program was to continue. She requested an outline of the details of the program and how it would proceed.

The Honourable John Ross raised the collapse of HIH Insurance and health professionals and their indemnity. I reiterate that it is unfortunate that the federal government is leading from behind on HIH matters. The collapse of the large insurance company resulted from the failure of the regulatory system to ensure proper prudential regulation was place. I suggest Dr Ross raise the matter with the Honourable Joe Hockey. Certainly the state government has dealt with issues relating to the building industry and seeks legislative responsibility for the registration of builders to have warranty insurance.

Hon. J. W. G. Ross — On a point of order, Mr President, I asked a simple question as to whether the minister had alerted the Minister for Health to the state responsibilities that devolve upon this issue and whether the minister can give an assurance that the health registration status of these health practitioners is secure. It is a state area of responsibility.

Hon. M. R. THOMSON — I have answered the question.

The Honourable Ken Smith raised a request with me and potentially with the Attorney-General. I will seek further details from the honourable member on what he suggests are building practices that do not meet requirements. I will ensure that someone from Consumer and Business Affairs Victoria contacts him to gain the detail we need to ensure a proper inquiry is held into those matters.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — The Honourable Bruce Atkinson raised the question of renovations to the Weeden Heights Primary School. I will refer the matter to the Minister for Education in the other place.

The Honourable Sang Nguyen raised the issue of the Melbourne Knights Soccer Club, and the action of those involved in the incident are certainly regrettable. Unfortunately a small number of people have reacted to the actions of a player who it is claimed incited them with a particular gesture. It is difficult for a club to control individuals who unfortunately bring the sport of soccer and individual clubs such as the Melbourne Knights into disrepute.

I am informed that the Melbourne Knights have worked with authorities to identify the offenders. Unfortunately the negative publicity has overlooked the positive work of clubs like the Knights in developing junior soccer and promoting community sport. I understand the Knights also intend to send a team to Vietnam and China. The club has been proactive not only in encouraging cultural support but also in generating enthusiasm for support within its own community and within overseas communities.

I acknowledge the difficulty of controlling the actions of some supporters, and I encourage the Knights and all national league soccer clubs to plan for these actions to ensure they maintain the safety of their players and officials.

The Honourable Ron Bowden raised the issue of selling land that has the potential to be used as the site for the Somerville secondary college. I will refer the matter to the Minister for Education in the other place.

The Honourable David Davis raised the issue of the Box Hill Bowling Club. I held a useful meeting with members of the Box Hill Bowling Club at their club to explain the situation with the Commonwealth Games facility for bowls and why they were not able to achieve success in that process. The chief executive officer of the City of Whitehorse was also there and did not dispute the facts with regard to the City of Whitehorse withdrawing from that process. The honourable member would understand that the tender and selection processes are closed, and that completes the process.

In relation to the matter raised by the Honourable Ian Cover regarding a state water sports facility strategy, I indicate that that will be released shortly. In recent days I have signed off for it to be released publicly and forwarded to the relevant stakeholders. Government members from the local area have been very proactive in drawing my attention to the water sports facility in

Geelong and advocating a well-considered upgrade of that facility.

I must point out that significant issues have been identified in the state water sports facility strategy in relation to all the facilities around the state. The strategy reinforces that because of the heavy investment in the Nagambie complex by the previous government — which in many ways did not consider the other facilities across the state; there are quite a number of them — we find ourselves with probably more rowing facilities than necessary. That places increased pressure on all those facilities as they clamour for events. It reinforces the failure of the previous government to fully consider how to develop water sports, particularly rowing, facilities across the state in a responsible manner.

I also endorse the fine work and advocacy of the local members down there — the honourable members for Geelong and Geelong North in the other place, Ian Trezise and Peter Loney, and particularly the Honourable Elaine Carbines.

Motion agreed to.

House adjourned 12.02 a.m. (Thursday) until Tuesday 22 May.

QUESTIONS ON NOTICE

Answers to the following questions on notice were circulated on the date shown.
Questions have been incorporated from the notice paper of the Legislative Council.
Answers have been incorporated in the form supplied by the departments on behalf of the appropriate ministers.
The portfolio of the minister answering the question on notice starts each heading.

Wednesday, 16 May 2001

Treasurer: Treasury and Finance annual report — building transactions

1444. THE HON. P. A. KATSAMBANIS — To ask the Honourable the Minister for Energy and Resources (for the Honourable the Treasurer): In relation to the Department of Treasury and Finance's Annual Report, 1999-2000:

(a) How many transactions of $1 million or more, including the freehold purchase or sale of buildings, building improvements, fit-outs, grounds development, heritage buildings restoration or the charging of depreciation took place during 1999-2000 that led to the Department's assets falling from $778.1 million to $673.4 million during 1999-2000.

(b) What was the amount of each transaction.

(c) What was the reason for each transaction.

(d) To what asset did the transaction relate.

(e) Will more complete information be provided in the 2001-2002 annual report about this aspect of the Department's operations.

ANSWER:

I am informed that:

Points 1 to 4

Total Departmental Assets decreased from $778.1 million to $673.4 million during the financial year. This decrease was brought about mainly by the following transactions and events:-

- Depreciation and Amortisation of Non-Current Assets for the year. **($29 million)**
- Disposal of Properties and other Non-Current Assets (e.g. Pentridge Prison). **($37 million)**
- A reduction in the Leased Motor Vehicle fleet. **($15 million)**
- A reduction in balances with the State Administration Unit. **($38 million)**

Net of:-

- Capital additions undertaken during the year. **($18 million)**

Point 5

The extent of detail currently provided in the Department's Annual Report (including the Financial Statements contained therein) readily satisfies the requirements of the Financial Management Act 1994 and Australian Accounting Standards.

The level of information to be provided, however, is continually subject to review, taking into account matters such as the perceived value to readers and other users of the Annual Report.

State and Regional Development: technology procurement policy

1445. THE HON. P. A. KATSAMBANIS — To ask the Honourable the Minister for Energy and Resources (for the Honourable the Minister for State and Regional Development): What is the Government's policy on open source code, as distinct from proprietary forms of software, as it applies to the public sector's information technology procurement activities.

ANSWER:

As an experienced acquirer, operator and user of information technology, the Victorian public sector maintains a watch on software and hardware product developments through regularly convened inter-departmental fora.

Where appropriate to the business needs of the Government, product acquisition takes place after evaluation and under the policies of the Victorian Government Purchasing Board.

State and Regional Development: technology procurement policy

1446. THE HON. P. A. KATSAMBANIS — To ask the Honourable the Minister for Energy and Resources (for the Honourable the Minister for State and Regional Development):

(a) What efforts have been made to gauge the effectiveness of Lotus Notes — (i) in comparison to other products on the market; and (ii) as a tool for improving or enhancing Government business.

(b) What analysis has been made of the adequacy of the system to handle the business of the public sector and to ascertain its impact on productivity levels.

ANSWER:

I am advised that Lotus Notes has been successfully implemented across 30,000 desktops in the Victorian Government. It provides a common email, work flow and application development environment for the Government.

Lotus Notes was selected after extensive product evaluation against current and future requirements of Government.

State and Regional Development: Industrial Supplies Office — pilot program on import replacement opportunities

1452. THE HON. BILL FORWOOD — To ask the Honourable the Minister for Energy and Resources (for the Honourable the Minister for State and Regional Development): In relation to the pilot program being conducted by Industrial Supplies Office to identify import replacement opportunities for regional manufacturers:

(a) What level of funding has the Government given to the Office for this pilot program.

(b) How many businesses have taken advantage of the service in Traralgon and Bendigo respectively.

ANSWER:

The Government gave the Industrial Supplies Office (ISO) $465,200 in June 2000 to fund its two year pilot program aimed at identifying import replacement opportunities for regional companies.

For the reporting period ending 31 December 2000, 80 businesses in the Gippsland area and 91 in the Bendigo area had taken advantage of the ISO’s services.

State and Regional Development: staff visit to United Kingdom

1455. THE HON. BILL FORWOOD — To ask the Honourable the Minister for Energy and Resources (for the Honourable the Minister for State and Regional Development): In relation to the visit of Barry Ferguson and Penelope Pengilley, Officers of the Department of State and Regional Development, to the UK between 19 December 1999 and 21 December 1999, for the purpose of conducting "business on behalf of the Victorian Government":

(a) What business were they conducting on behalf of the Victorian Government.

(b) What was the total cost of their overseas visit.

ANSWER:

(a) Mr Ferguson and Ms Pengilley were dealing with matters relating to the management and operation of the Victorian Government Business Office in London.

(b) The total cost of the trip was $14,669.61.

State and Regional Development: Renaissance of the Regions

1456. THE HON. BILL FORWOOD — To ask the Honourable the Minister for Energy and Resources (for the Honourable the Minister for State and Regional Development): With regard to the Renaissance of the Regions forums held by the Institute of Public Administration Australia in Bendigo and the Symposium in Melbourne:

(a) What financial support was given by the Department of State and Regional Development to each event.

(b) What financial support was given directly to the Institute of Public Administration Australia.

(c) Did the Department of State and Regional Development share any of the costs of the events.

(d) Will the Department of State and Regional Development support these forums in 2001; if so, will it be at the same level of funding.

ANSWER:

(a) None.

(b) None.

(c) No.

(d) DSRD has not been approached by the Institute of Public Administration in relation to the staging of forums in 2001.

Health: Renaissance of the Regions

1457. THE HON. BILL FORWOOD — To ask the Honourable the Minister for Industrial Relations (for the Honourable the Minister for Health): With regard to the Renaissance of the Regions symposium in Melbourne held by the Institute of Public Administration Australia:

(a) What financial support was given by the Department of Human Services to this event.

(b) What financial support was given directly to the Institute of Public Administration Australia.

(c) Did the Department of Human Services share any of the costs of the events.

(d) Will the Department of Human Services support these forums in 2001; if so, will it be at the same level of funding.

ANSWER:

(a) Through its Rural Health Programs Unit, the Department of Human Services provided the Institute of Public Administration, Australia (Victorian Division) with funding of $22,000 (inclusive of GST) as major sponsorship of the "Renaissance of the Regions".

(b) See answer to (a) above.

(c) The only financial contribution made to the "Renaissance of the Regions" by the Department of Human Services was the major sponsorship of $22,000 (inclusive of GST).

(d) The Institute of Public Administration has not approached the Department of Human Services during the current financial year for additional funding for "Renaissance of the Regions" forum. Any request for funding would be assessed on its merit and consistency to government policy.

Consumer Affairs: Renaissance of the Regions

1458. THE HON. BILL FORWOOD — To ask the Honourable the Minister for Consumer Affairs: With regard to the Renaissance of the Regions symposium in Melbourne held by the Institute of Public Administration Australia:

(a) What financial support was given by the Department of Justice to this event.

(b) What financial support was given directly to the Institute of Public Administration Australia.

(c) Did the Department of Justice share any of the costs of the events.

(d) Will the Department of Justice support these forums in 2001; if so, will it be with the same level of funding.

ANSWER:

(a) The Department of Justice has provided $20,000 by way of sponsorship to the program.

(b) As per response to (a).

(c) Only so far as the $20,000 referred to in (a) was used to fund, in part, the dinner and symposium of the Renaissance of the Regions seminar series, as well as support the delivery of regional seminars.

(d) The three regional seminars have been rescheduled for July, August and September 2001. The cost of these is partially funded from the Department of Justice sponsorship (refer (a)).

Post Compulsory Education, Training and Employment: Renaissance of the Regions

1459. THE HON. BILL FORWOOD — To ask the Honourable the Minister for Sport and Recreation (for the Honourable the Minister for Post-Compulsory Education, Training and Employment): With regard to the Renaissance of the Regions symposium in Melbourne held by the Institute of Public Administration Australia:

(a) What financial support was given by the Department of Education, Employment and Training to this event.

(b) What financial support was given directly to the Institute of Public Administration Australia.

(c) Did the Department of Education, Employment and Training share any of the costs of the events.

(d) Will the Department of Education, Employment and Training support these forums in 2001; if so, will it be at the same level of funding.

ANSWER:

I am informed as follows:

With regard to the *Renaissance of the Regions* Symposium in Melbourne held by the Institute of Public Administration Australia:

(a) No financial support was given by the Department of Education, Employment and Training to this event.

(b) No financial support was given directly to the Institute of Public Administration Australia.

(c) The Department of Education, Employment and Training did not share any of the costs of the event.

(d) The Department of Education, Employment and Training does not anticipate financially supporting such forums in 2001.

Major Projects and Tourism: regional events audit

1463. THE HON. BILL FORWOOD — To ask the Honourable the Minister for Sport and Recreation (for the Honourable the Minister for Major Projects and Tourism): Has the audit of regional events (as reported in the *Age*, on 13 March 2000, p 5) been conducted; if so, what was the outcome of the audit.

ANSWER:

Last year an extensive audit of regional events was undertaken in consultation with local government. An expert panel comprising representatives from Tourism Victoria and the Country Victoria Tourism Council (CVTC) was formed to review the audit.

The review prioritised the events according to the following criteria:

- Geographical spread
- Timing of the event
- Tourism regional strengths
- Opportunity for future development of the event

Many of the events identified in the audit have received funding through Tourism Victoria's events program, whilst others were referred to the Country Victoria Events Program, which is managed by the CVTC.

Major Projects and Tourism: gold — discovery anniversary funding

1466. THE HON. BILL FORWOOD — To ask the Honourable the Minister for Sport and Recreation (for the Honourable the Minister for Major Projects and Tourism):

(a) How many applications were received for Gold 150 celebration funding.

(b) Will all applications be made publicly available.

(c) What were the criteria/guidelines adopted by the Gold 150 Steering Committee to allocate funding.

(d) What are the details of the Action Plan prepared by the Gold 150 Steering Committee.

(e) What audit process was established by the Gold 150 Steering Committee.

ANSWER:

The Country Victoria Tourism Council (CVTC) received thirty applications for Gold 150 events funding, and forty-eight applications for funding for gold-related infrastructure projects. I announced the successful applications earlier this year. The unsuccessful applications will not be made publicly available.

The funding guidelines adopted by the Gold 150 Steering Committee include the following:

- Events that are eligible include cultural events, arts events, community-based events, recreational events, or indoor and outdoor events.
- Infrastructure projects that are eligible include restoration projects of historic sites and artefacts, refurbishment and restoration of buildings, erection or construction of signage to mark and interpret significant sites, preservation and conservation of historical materials, development of a walk, tour or interpretative trail, or artistic works, books or films.
- Applicants should have funding equivalent to or greater than the amount requested.
- Funds will be spent on marketing, educational programs, material and administration expenses only.
- Applications are from not-for-profit entities**.**

The Gold 150 project Action Plan identified the major milestones of the project such as a marketing campaign, identification and timing of events and projects, and funding programs.

The Steering Committee has monitored projects with a review of the process undertaken by the CVTC Board in close consultation with the Community Support Fund. At the conclusion of the project a review will be undertaken of the entire project by 31 March 2002.

State and Regional Development: Rural Community Development program

1468. THE HON. BILL FORWOOD — To ask the Honourable the Minister for Energy and Resources (for the Honourable the Minister for State and Regional Development):

(a) What projects have received funding under the Rural Community Development program since 1 July 2000.

(b) What was the funding allocation for each and who was the funding recipient.

ANSWER:

Since 1 July 2000, I have approved 77 Rural Community Development Program grants totalling $2,877,000 to 31 regional councils, for the purposes of implementing a range of infrastructure projects that restore community pride and enhance community ownership.

State and Regional Development: Rural Leadership program

1471. THE HON. BILL FORWOOD — To ask the Honourable the Minister for Energy and Resources (for the Honourable the Minister for State and Regional Development):

(a) What projects have received funding under the Rural Leadership Program since 1 July 2000.

(b) What was the funding allocation for each and who was the funding recipient.

ANSWER:

Since 1 July 2000, I have approved one rural leadership grant, under the Rural Leadership and Community Events Program, of $50,000 to the Wimmera Leadership Program. The funding recipient was the Wimmera Development Association.

Leadership projects are considered for grant funding under the consolidated Rural Leadership and Community Events Program. The program was advertised in rural and regional newspapers and all eligible Councils were notified. Responses have been followed up by Rural Community Development Officers (RCDOs) to investigate levels of local support and other program eligibility requirements. RCDOs are promoting the program throughout their established community networks to further identify, develop and refine proposals for potential funding under the program. The Community Capacity Building Initiative is also expected to leverage opportunities for funding to be directed to effective leadership projects.

Major Projects and Tourism: Tourism Industry and Infrastructure Development program

1475. THE HON. BILL FORWOOD — To ask the Honourable the Minister for Sport and Recreation (for the Honourable the Minister for Major Projects and Tourism):

(a) What projects have received funding under the Tourism Industry and Infrastructure Development program since 1 July 2000.

(b) What was the funding allocation for each and who was the funding recipient.

ANSWER:

Since 1 July 2000, a total of $1,865,000 in funding has been provided through various programs in the Department of State and Regional Development for tourism-related infrastructure projects. Projects to receive funding have included significant heritage tourist sites, related support facilities, and a range of tourist facility upgrades throughout Victoria.

Funding recipients were local councils, local heritage and conservation groups, and Parks Victoria.

Major Projects and Tourism: Event Facilitation program

1476. THE HON. BILL FORWOOD — To ask the Honourable the Minister for Sport and Recreation (for the Honourable the Minister for Major Projects and Tourism):

(a) Which events have received funding under the Event Facilitation program since 1 July 2000.

(b) What was the funding allocation for each and who was the funding recipient.

ANSWER:

Since 1 July 2000, Tourism Victoria through its events program has allocated the following funds:

Since, 1 July 2000, event facilitation funding totalling $942,300 has been granted to local councils and organising bodies for cultural and sporting events throughout Victoria. This total includes funding granted under the Country Victoria Events Program of $96,600.

Major Projects and Tourism: Country Victoria Tourism Council — audit

1477. THE HON. BILL FORWOOD — To ask the Honourable the Minister for Sport and Recreation (for the Honourable the Minister for Major Projects and Tourism): Given that the allocation of regional events funding (primarily through the Country Victoria Events Program) has been transferred to the Country

Victoria Tourism Council, what auditing processes have been established to oversee CVTC allocation of these funds.

ANSWER:

Tourism Victoria must approve the recommendations put forward by the Country Victoria Tourism Council in the allocation of funds for the Country Victoria Events Program.

Tourism Victoria ensures the following criteria are met with regard to events funding:

- Level of local support;
- Timing of the event;
- Fit with regional tourism strengths; and
- Potential for ongoing development of the event.

The financial management of the program is subject to Tourism Victoria's normal internal and external audit program.

Housing: public — construction of new stock

1480. THE HON. ANDREA COOTE — To ask the Honourable the Minister for Small Business (for the Honourable the Minister for Housing and Aged Care): In relation to the need for more public housing, where has the construction of new stock commenced in the period since October 1999.

ANSWER:

I am informed that:

In the period from 1 October 1999 to 23 March 2001, a total of 659 properties have been constructed.

Environment and Conservation: weed control

1487. THE HON. W. R. BAXTER — To ask the Honourable the Minister for Energy and Resources (for the Honourable the Minister for Environment and Conservation): How many prosecutions have been launched against private land-holders in each of the past five calendar years for failure to take reasonable steps to eradicate noxious weeds.

ANSWER:

I am informed that:

The following prosecutions have been launched against private land-holders for failure to comply with the requirements of a Land Management Notice issued in relation to weed control:

1996	1
1997	0
1998	7
1999	4
2000	5

All prosecutions were successful.

In the last nine months from July 2000 to March 2001, NRE officers have stepped up their focus on weeds enforcement with 15,274 landholder contacts being made and 2,523 enforcement actions being taken by NRE officers.

This is a 74% increase compared to the last twelve months of the Kennett Government and has resulted in an overall compliance figure of 93%.

Multicultural Affairs: use of the term 'Macedonian (Slavonic)'

1492. **THE HON. C. A. FURLETTI** — To ask the Honourable the Minister for Industrial Relations (for the Honourable the Minister for Multicultural Affairs): Has the Government or anyone on its behalf engaged in communication with the Macedonian Teachers Association of Victoria to withdraw the term "Macedonian (Slavonic)" issuing an apology and contributing to the association's costs; if so, on what dates and with whom did those communications take place and in what form.

ANSWER:

I am informed that:

When this Government took Office, a legal action by the Macedonian Teachers' Association against the State of Victoria was unresolved. The Government undertook to have the matter resolved via the legal process and as part of this process various suggestions were made about how the issue might be resolved. On 8 September 2000, the Human Rights and Equal Opportunity Commission (HREOC) determined that the language directive was indeed unlawful. This decision resulted in the subsequent withdrawal of the language directive.

Environment and Conservation: Black Rock seawall

1679. THE HON. J. W. G. ROSS — To ask the Honourable the Minister for Energy and Resources (for the Honourable the Minister for Environment and Conservation): In relation to the funding commitment by the Government to reinstate the seawall opposite 325 Beach Road, Black Rock and works being undertaken — (i) what was the financial contribution of the Government to the total cost of the works; (ii) what was the reason for the collapse of the wall again in early December following the works undertaken; (iii) who was the contractor responsible for the works; (iv) what is the revised cost for the completion of the project; and (v) who will bear the cost for the further reinstatement of the wall.

ANSWER:

I am informed that:

(i) The Department of Natural Resources and Environment (NRE) bore the total cost of $25,570 for repairing the 15 metre section of damaged seawall at Black Rock.

(ii) Adverse weather conditions that occurred while the seawall was being repaired in December caused some minor damage whilst the repair work was being undertaken. The damage was repaired immediately and did not add to the cost of the works.

(iii) The contractor responsible for the works was Natural Stone Constructions Pty Ltd.

(iv) The cost for the repair of the damaged section was $25,570. The Government has allocated a further $125,000 for maintenance works which includes the replacement of capping and bluestone blocks and tuckpointing to prevent water penetrating behind the wall. These works are aimed at preventing further risk management issues arising in relation to the Black Rock Seawall.

(v) Responsibility for the unprogrammed repair of coastal assets damaged as a result of natural coastal processes (including storm events) is negotiated on a case by case basis between NRE and respective coastal managers.

Environment and Conservation: Port Phillip Bay — northern Pacific sea star

1680. THE HON. J. W. G. ROSS — To ask the Honourable the Minister for Energy and Resources (for the Honourable the Minister for Environment and Conservation): In relation to the estimates that the Northern Pacific Sea Star has increased in number in Port Phillip Bay from a handful in 1995 to an estimated figure of over 100 million, what strategies has the Government developed to minimise the impact of the sea star upon the food sources for the existing commercial and recreational fisheries in the Bay in the current financial year.

ANSWER:

I am informed that:

Victoria has taken a practical and targeted approach and focused its science efforts on improving the control of vectors, eg ships, that lead to the introduction of pests in the first place.

In February 2001 the Victorian Government announced a national trial on ballast water management arrangements. The trial, costing $900,000 will be based in the Port of Hastings. It involves Australian Quarantine Inspection Service, CSIRO - Centre for Research on Introduced Marine Pests and Victorian agencies led by the EPA. The trial has the full support and active involvement of Australia's port and shipping sectors.

When completed it will significantly reduce the risk that the Northern Pacific Seastar will spread to other areas.

With regard to specific work on the Northern Pacific Seastar, the Marine and Freshwater Resources Institute (MAFRI) is conducting a research program based on a July 2000 review by leading scientists from Melbourne, Monash and Tasmanian universities and the CSIRO - Centre for the Research on Introduced Marine Pests.

Environment and Conservation: Bayside — coastal bicycle path

1682. THE HON. J. W. G. ROSS — To ask the Honourable the Minister for Energy and Resources (for the Honourable the Minister for Environment and Conservation):

(a) What risk assessment has been undertaken by the Government for pedestrian safety on the coastal bike path nearing completion in the City of Bayside, noting the multiple access and egress points along Beach Park onto the bike path, many of which have no cautionary signage.

(b) In the event of an adult or child being injured by a passing cyclist or roller blader, what insurance cover is provided by the government or the local authority to cover the cost of medical treatment.

ANSWER:

I am informed that:

(a) The shared pathway along Beach Park in the City of Bayside was designed and constructed by the Bayside City Council which is the Committee of Management for Coastal Crown land in this municipality. A thorough risk assessment was completed during the design and construction phases of the pathway, wherein risk issues affecting pedestrians as well as cyclists and other users of the path were identified. These risks were minimised by design including improved delineation of paths for pedestrians, vehicles and cyclists and installation of appropriate signage.

Since construction, some minor safety issues along the pathway have been identified and addressed by Bayside City Council. Given the small number of instances and issues that have arisen, it has not appeared necessary to undertake a comprehensive post construction risk assessment.

(b) Public liability cover is provided by the government and local authority. This insurance covers injury caused through negligence to a person using a shared path.

Environment and Conservation: Port Phillip coastal parks — foxes

1683. THE HON. J. W. G. ROSS — To ask the Honourable the Minister for Energy and Resources (for the Honourable the Minister for Environment and Conservation): In relation to the prevalence of foxes in some of the coastal parks around Port Phillip Bay:

(a) What studies have been undertaken by the Department of Natural Resources and Environment in relation to the impact of foxes on native flora and fauna in coastal parks and reserves along the coastline of Port Phillip Bay.

(b) What estimates are there of the number of foxes in coastal parks and reserves along the coastline of Port Phillip Bay.

(c) What Government strategies and programs have been developed to control fox populations.

(d) What strategies have been developed by local governments responsible for the management of Crown Land and coastal parks and reserves along the coastline of Port Phillip Bay in relation to the control of fox populations.

ANSWER:

I am informed that:

(a) A significant study on urban foxes including the coastal areas of Port Phillip Bay in the 1990s established the fox is widely distributed across metropolitan Melbourne. Foxes are opportunistic feeders and in conservation areas prey on a variety of native animals.

(b) Estimation of the numbers of foxes in coastal parks and reserves cannot be readily done due to the large distances these animals travel and fluctuations in population according to season. The 1990s' study found that in some areas within the metropolitan area the fox population maybe as high as 14 foxes per square kilometre. This compares with approximately 7 foxes per square kilometre in urban-rural fringe. Densities in rural areas are lower again.

(c) In Victoria, predation by foxes is listed as a key threatening process under the *Flora & Fauna Guarantee Act 1988*. The key conservation objective of fox management is to protect and promote viable populations of endangered and threatened fauna on both public and private lands. For example, there is a strong focus on fox control on Phillip Island where the predation of penguins by foxes can result in significant mortality. In 1999/2000 Phillip Island Nature Park's fox control activities accounted for eradication of 69 foxes. Parks Victoria has an active fox control program to protect the Hooded Plover at Point Nepean within the Mornington Peninsula National Park.

The Catchment Management Authorities, including the local Port Phillip Catchment and Land Protection Board are currently developing regional Fox Action Plans. Port Phillip also has an extension program focusing on providing information, *Coping with foxes in Urban Areas*, to urban and urban-rural fringe landowners on how to deal with foxes in their local neighbourhood.

(d) The highly populated and visited public land strip along the coast of Port Phillip Bay poses a particularly difficult management task in terms of feral animal control, in particular for foxes, due to the limited range of methods of control that can be applied. Some Councils have trained staff who are able to carry out humane fumigation of dens. Councils and land managers around Port Phillip Bay are aware of the need to work together in the development and implementation of appropriate control methods.

Consumer Affairs: petrol substitution

1686. THE HON. BILL FORWOOD — To ask the Honourable the Minister for Consumer Affairs:

(a) How many times since March 2000 has fuel at M and C Petroleum at Hoppers Crossing been tested.

(b) On what dates did the tests take place.

(c) On what dates were the results received.

(d) What were the results.

(e) How many tests were random.

(f) How many tests followed consumer complaints.

ANSWER:

Fourteen tests on a number of underground tanks containing diesel, unleaded petrol and super petrol were conducted at M&C Petroleum storage tanks from 30 January 2001 and 22 March 2001. Results were received between 31 January 2001 and 30 March 2001.

A number of tests indicated a range of problems such as water being present in some unleaded fuel, some of the diesel having a low flashpoint and that some of the super grade fuel appeared to have been mixed with unleaded fuel. A number of repeat tests were required in relation to the various storage tanks in order to assess the effect of the rectification attempts made by the owner.

The tests were all related to inquiries being conducted by Consumer and Business Affairs Victoria for enforcement purposes under the Fair Trading Act 1999. The tests were conducted as a result of information received from the Victorian Automobile Chamber of Commerce which had received a number of complaints.

Consumer Affairs: petrol substitution

1687. THE HON. BILL FORWOOD — To ask the Honourable the Minister for Consumer Affairs:

(a) Has the fuel at any Liberty Oil stations been tested since march 2000; if so, which ones, when, and with what results.

(b) Were the tests random or as a result of consumer complaints.

ANSWER:

(a) A sample of Unleaded Petrol was taken from a Liberty Service Station on 5 January 2001. The test result was satisfactory.

(b) The test was carried out as a result of a consumer complaint. In view of the satisfactory result, no further action was taken.

Corrections: full-time employees

1703. THE HON. B. C. BOARDMAN — To ask the Honourable the Minister for Sport and Recreation (for the Honourable the Minister for Corrections): What was the level of effective full-time employees within the Office of the Commissioner for Corrections as at 20 October 1999 and 31 March 2001, respectively.

ANSWER:

The level of effective full-time employees within the Office of the Commissioner for Corrections as at 20 October 1999 was 63, and 31 March 2001 was 78.