PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-FOURTH PARLIAMENT

FIRST SESSION

Book 4

30 November and 1 December 1999

Internet: www.parliament.vic.gov.au

By authority of the Victorian Government Print

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TUESDAY, 30 NOVEMBER 1999

WEDNESDAY, 1 DECEMBER 1999

Tuesday, 30 November 1999

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

CONDOLENCES

Henry Arthur Hewson

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

> That this house expresses its sincere sorrow at the death, on 20 November 1999, of Henry Arthur Hewson, and places on record its acknowledgment of the valuable services rendered by him to the Parliament and the people of Victoria as a member of the Legislative Council for the Gippsland Province from 1964 to 1970.

Henry Arthur Hewson, known as Arthur, was born on 31 December 1914 and served in this house as a member for Gippsland Province between 1964 and 1970. Arthur was a dairy farmer before he entered Parliament, representing what was then the Country Party, now the National Party. He was a member of that party for more than 50 years. I am advised that in 1983 there was a celebration of Mr Hewson's 50 years as a member of the National Party. It is certainly a major achievement to have been a member of a political party for half a century and beyond.

Arthur Hewson was active in his local community. He was president of the Warragul Agricultural Society, president of the Poowong Football Club, a volunteer with the Country Fire Authority, and a member of the Rotary and Lions clubs. In addition, Mr Hewson served on a number of government boards and authorities, including the West Gippsland Base Hospital board, the Gippsland Water Utilisation Committee and the Gippsland Regional Tourist Authority.

After serving in the Victorian Parliament, Arthur was elected to the federal Parliament as the member for McMillan between 1972 and 1975 before returning to farming. On behalf of the government I extend condolences to the family of Arthur Hewson.

Hon. M. A. BIRRELL (East Yarra) — I join with the Leader of the Government in expressing the opposition's condolences on the passing of Arthur Hewson. Arthur Hewson was a member of the Legislative Council and then a member of the House of Representatives in the federal Parliament, a rather unusual career. Mr Hewson gave enormous service to his political party, the National Party, and was an individual who I believe was well recognised by that organisation for five decades of service. In this day and age it is perhaps unusual for individuals to be so steadfastly committed to a political party and so active in its organisation for half a century. Although Mr Hewson was not known to me personally, it is appropriate that I place on record on behalf of my colleagues our appreciation for his service to public life, not just his service to the Legislative Council.

Arthur Hewson was a member for Gippsland Province from 1964 to 1970 — one full term. He then had a break, a quiet interlude, and became a member of the House of Representatives later on, having been elected in the landslide 1972 election. He was re-elected in the 1974 election, was subsequently defeated by a very noble political party and ended his parliamentary career. Nevertheless, during his time in Parliament he made a clear contribution on behalf of the people of Gippsland and was a strong advocate for the regional development needs of Victoria in both the state and federal parliaments. On behalf of my colleagues I pay this tribute to Mr Hewson, who died on 20 November this year.

Hon. R. M. HALLAM (Western) — Arthur Hewson was an absolute pillar of the National Party. As the Leader of the Government has said, his service to the party went back over more than 50 years. In fact, he joined when the National Party was the Country Party. In 1983 the *National Outlook* included an article on the half century of service of Arthur Hewson. It was not just 50 years with the party; he served in almost every capacity. He joined the Poowong branch at the tender age of 18 years and served in almost every capacity, at both branch and state levels. Arthur was elected to this chamber having successfully contested a Gippsland Province seat in June 1964 and was defeated at the June 1970 election by Labor's Eric Kent.

I knew Arthur Hewson only fleetingly; we came across each other at odd times in the days of his retirement. But I can report to the chamber that I knew his replacement quite well. Eric Kent was a revered member of the house when I first joined it and he, too, had had an interruption to his political career, which he used to mention when he had an opportunity. Eric Kent was a gentleman, as indeed was Arthur Hewson.

Arthur won the federal seat of McMillan and, although he served just short of four years there, successfully recontested the seat in the election of 1974. He was eventually beaten for the seat by the Liberal Party's Barry Simon.

Arthur Hewson was a pillar not just of the National Party but of his local community. The report in the *Bibliographical Register of the Victorian Parliament*

1900–1984 of his association with the party goes several steps further than has been spoken of in this motion. It is appropriate that I record at least some of the involvements of the late Arthur Hewson.

He was a well-known dairy farmer and breeder of jersey cattle, and served the Victorian Dairy Corporation for four years during the Second World War. He was a member of the Returned and Services League and for 26 years was a member and twice president of the Warragul Agricultural Society. Arthur was president of the Poowong Football Club and vice-president of the Bass Valley Football League. In addition he was a member and chairman of the Lardner public hall, Pioneer Park and picnic committees, and a member of the West Gippsland Base Hospital board from 1960, as well as chairman and member of the Warragul and Drouin high school councils from 1965 to 1975.

Arthur Hewson was a member of the Gippsland water utilisation committee and chairman of the West Gippsland social worker group; director of the Gippsland Regional Tourist Authority and a member of the Victorian Dairy Authority, the Victorian Farmers Union and the Victorian Farmers Graziers Association, which organisations his farming life brought him into contact with. For more than 25 years he was a volunteer member of the Country Fire Authority and was very proud of his badge of service from that organisation. Arthur was a justice of the peace, a member of the Soil Conservation Advisory Committee and a long-time member of the Decentralisation and Development Association, as well as a member of Warragul Rotary and Lions clubs. Older members of the house will remember the former Victorian Dairyfarmers Association: Arthur was proud of his role in that organisation. In addition, he served a term as the president of the Warragul Bowling Club and was a councillor and served two terms as president of the Shire of Warragul, an involvement of which he was particularly proud.

Arthur Hewson was an extraordinary Victorian. I did not know him well, more's the pity, because everybody who knew Arthur spoke extremely highly not only of his sense of justice and personal integrity but also of his total commitment to his family and community. It is well known that Arthur Hewson was an extraordinarily pleasant man, and I can think of no better epitaph than that for him.

Arthur Hewson died on 20 November in his 85th year. On behalf of the National Party, I extend condolences to his wife, Ellen, and his four surviving children, Geoff, Neville, Russell and Julie. It is appropriate that we take time out to record the life and contribution of Arthur Hewson and to extend our condolences to his family, but it is more important that we celebrate the full and rewarding life of a remarkable Victorian, Henry Arthur Hewson.

Hon. P. R. HALL (Gippsland) — I have had what I consider to have been a real privilege in knowing Arthur Hewson well. As has already been said by other honourable members, Arthur Hewson was a staunch member of the National Party, having been a member for 64 years — a record not many people could achieve. Arthur was one of life's true gentlemen. I had the privilege of being able to classify myself as a friend of his. He was a wise person from whom I sought counsel on many occasions, and he readily volunteered that counsel. I would always listen to him because of his experience in community and political matters. His opinion was well considered.

Arthur lived in the Warragul region all his life and served his community with the utmost distinction. He served on many community organisations — at last count, about 38 — and I am sure there are other organisations that his family could not remember. When Arthur did something, he did it to the full. He was not just a token member of many of those organisations but made a long and positive contribution. For example, he was a member of the National Party for 64 years and achieved life membership. He served on the council of the Shire of Warragul for many years and served two terms as shire president. He served on the board of the West Gippsland Base Hospital for 30 years and achieved life membership of that organisation. He was a life member also of the West Gippsland Agricultural Society, having given many years service, and of the Warragul Agricultural Society, which was useful for the National Party because during election times he would ensure, as president of the society, that the National Party stall had a prominent location at the annual show.

In 1990 he was awarded a Medal of the Order of Australia (OAM) for his service to the community — a well-deserved award, although I learnt from his children that they considered, in a rather tongue-in-cheek way, that the OAM really stood for 'out at another meeting', which could be true given Arthur's involvement in community life.

As has been said, he served three levels of government, having held one of the seats of Gippsland Province from 1964 to 1970 and the federal seat of McMillan from 1972 to 1975, and being involved in local government for some 20 years. Throughout his public service he displayed the predominant characteristics

that classified him — humility, honesty and humour. He was that sort of person.

At Arthur's funeral service in Warragul last Friday one of his former federal colleagues, Tom McVeigh, said of him, 'He didn't seek greatness, but he attained it'. I do not think any of the 600 people who attended the funeral service would dispute that claim because, throughout his life, whatever Arthur Hewson did in his local community was always appreciated and respected. He achieved greatness at his local level.

Arthur is survived by his wife of about 60 years, Ellen, and his surviving children, Geoff, Neville, Russell and Julie Follett. His children spoke at the funeral service, and in their contributions their great love for their father came through strongly, as did his characteristics, including his great sense of humour. I commend Arthur's children for their courage in standing up and speaking so lovingly of their father.

The funeral was a great tribute to Arthur, who died at Gracevale Lodge in Warragul on 20 November. I had the opportunity to visit him at the lodge about three weeks before his death. Although at that time his health was failing and he was stressed, the cheeky grin that people associated with Arthur remained. He was nicknamed Tiger Hewson because of that characteristic; it enabled him to complete the tasks that confronted him throughout his life. I was grateful for the opportunity to meet with him again shortly before his death.

Arthur had a love for life and a passion for lawn bowls and community service. I, along with his wife, Ellen, and his children Geoff, Neville, Russell and Julie and their families, will greatly miss the wise counsel that Arthur Hewson was able to offer me whenever I asked for it. I join the house in contributing to the condolence motion for a great man in Arthur Hewson.

Motion agreed to in silence, honourable members showing unanimous agreement by standing in their places.

HEALTH PRACTITIONERS (SPECIAL EVENTS EXEMPTION) BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. M. M. GOULD (Minister for Industrial Relations).

LEGAL PRACTICE (AMENDMENT) BILL

Introduction and first reading

Received from Assembly.

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

ESSENTIAL SERVICES (YEAR 2000) BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. M. M. GOULD (Minister for Industrial Relations).

QUESTIONS WITHOUT NOTICE

Minister assisting the Minister for Planning: responsibilities

Hon. G. R. CRAIGE (Central Highlands) — I ask the Minister assisting the Minister for Planning: are you the minister responsible for the Building Control Commission?

Hon. J. M. MADDEN (Minister assisting the Minister for Planning) — I am the Minister assisting the Minister for Planning. Although I have had dialogue with the Building Control Commission, that authority still rests with the minister.

Industrial relations: workplace agreements

Hon. G. D. ROMANES (Melbourne) — Will the Minister for Industrial Relations advise the house of Victoria's position on the federal government's proposed amendments to the federal Workplace Relations Act?

Hon. M. M. GOULD (Minister for Industrial Relations) — The Bracks government's policy is clear on industrial relations. Last week the government forwarded to the Senate workplace relations committee a submission on Victoria's position on industrial relations. The submission clearly identified — and it was forwarded to — —

Hon. M. A. Birrell — Did you send it to Cheryl Kernot?

Hon. M. M. GOULD — I sent a copy to you. The policy is clear; comprehensive terms and conditions will be established for all Victorians. In the submission the government identified that the second-wave

legislation before the Senate will only increase the existing injustices to Victorian workers. The submission identified a major concern of the Bracks government, that 700 000 Victorian workers have only five minimum conditions resulting from the previous government's referral to schedule 1A of the federal Workplace Relations Act. The submission also identified the policy of the Bracks government to support a unitary system that is fair for all. That system covers a comprehensive award system, allows for the independence of the Australian Industrial Relations Commission, puts an end to secret, individual contracts under Australian workplace agreements, and is based on a genuine no disadvantage test.

Yesterday the Victorian government's submission was vindicated by Democrat and Labor Senators when they handed down a report on the issues raised by the Victorian government, which clearly sets out that the second-wave legislation is an attack on Victorian workers. The Victorian government's submission highlighted its concerns and the position it is taking.

Drugs: youth pledge

Hon. P. R. HALL (Gippsland) — I refer the Minister for Youth Affairs to his government's youth pledge, which states:

> Labor will decriminalise the possession and use of small quantities of marijuana.

Will the minister define for the house exactly what he means by 'small quantities'?

Hon. J. M. MADDEN (Minister for Youth Affairs) — I thank the Honourable Peter Hall for his question about small quantities of marijuana. The government recognises that any illicit drugs are a health risk and a public nuisance. It has a major platform on the use of illicit drugs and a substantial policy on safe injecting houses, which it is currently pursuing and on which it is negotiating with relevant stakeholders. In relation to any drug use, the government is still embarking on a wide-ranging consultation process with local government bodies, community groups and key stakeholders.

Ports: shipping management centre

Hon. KAYE DARVENIZA (Melbourne West) — Will the Minister for Ports inform the house of the benefits of the establishment of the new shipping management centre in Melbourne?

Hon. C. C. BROAD (Minister for Ports) — Some honourable members opposite would be aware that in 1996 the Victorian Channels Authority was established by the previous government. Among other important matters for which the channels authority is responsible, it currently operates a 24-hour shipping control function for three ports — Melbourne, Geelong and Point Lonsdale. Given that each year there are approximately 3000 shipping visits to Melbourne and 500 to Geelong, the function the authority exercises is patently important. Unfortunately developments at Docklands and with the Bolte Bridge have effectively moved the centre of the port of Melbourne — —

Hon. M. A. Birrell — Unfortunately?

Hon. C. C. BROAD — Down towards the river entrance. The unfortunate consequence of — —

Hon. G. R. Craige interjected.

The PRESIDENT — Order! I ask Mr Birrell and Mr Craige to desist and to allow the minister to answer the question.

Hon. C. C. BROAD — The unfortunate consequence was that the Melbourne Harbour Control Centre at Victoria Dock was effectively cut off from the port, which I think honourable members would agree was not a desirable state of affairs.

Following extensive consultations, I am pleased to advise that a new shipping management centre has been built at South Wharf on Lorimer Street. At a recent meeting the Victorian Channels Authority was pleased to inform me that it had not only completed the centre but had also delivered it under budget and on time — something of which it was very proud. The authority deserves to be congratulated on such a great centre.

In conjunction with the completion of the centre there has been a significant upgrading of communications equipment. On the advice I have been provided with I am confident it will provide far better coverage and enable better ship management.

Small business: infrastructure planning council

Hon. W. I. SMITH (Silvan) — Will the Minister for Small Business guarantee that small business will have representation on the infrastructure planning council?

Hon. M. R. THOMSON (Minister for Small Business) — The Bracks Labor government has given a commitment to having a small business representative — —

An Honourable Member — One small businessperson?

Hon. M. R. THOMSON — One small businessperson representing the interests of small business on the council.

Rural Victoria: major sporting events

Hon. D. G. HADDEN (Ballarat) — Will the Minister for Sport and Recreation inform the house on how Sport and Recreation Victoria is promoting major sporting events in rural Victoria?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — Last Friday I was fortunate to launch the Women's World Bowls 2000 tournament at the Parliament House bowling green. The tournament will be held at Echuca–Moama from 8 March until 25 March next year. The event will involve 170 of the world's best female bowlers from 34 competing countries, including the Australian women's bowls team. The economic benefits to the Echuca–Moama district will be significant. I am pleased that my office was able to promote the wonderful event and that the parliamentary grounds were able to be used for the promotion. The launch represented the government's ongoing commitment to the development of lawn bowls throughout Victoria.

Restaurants: smoking ban

Hon. BILL FORWOOD (Templestowe) — I direct my question to the Minister for Small Business. On Saturday the Minister for Health announced that the minority Labor government would introduce a no-smoking policy for Victorian restaurants. Did he consult with the Minister for Small Business before he announced the policy, which will have an impact on thousands of Victorian small businesses?

Hon. M. R. THOMSON (Minister for Small Business) — The minister did not consult me before making the announcement to the press on Saturday about the smoking ban in restaurants. However, I should have thought that the notion of having a healthy, clean environment in which their workers could work would be something that restaurateurs would support.

Water safety: education campaign

Hon. R. F. SMITH (Chelsea) — Will the Minister for Ports inform the house what action has been taken to provide safety information to boat users this summer?

Honourable members interjecting.

Hon. C. C. BROAD (Minister for Ports) — If honourable members had been listening they would have heard the question. The question relates to the important issue of safety on the waterways this summer.

Hon. M. A. Birrell interjected.

The PRESIDENT — Order! Mr Birrell seems to be having a difficult day. I ask him to keep his own counsel and to allow the minister to respond.

Hon. M. A. Birrell — Tell us what you think of the honourable member you offended. You were trying to keep us quiet. Tell us what you think of the guy sitting behind you.

The PRESIDENT — Order! The minister is responding to the question put by the Honourable Bob Smith.

Hon. C. C. BROAD — Honourable members will recall that recently in the house I referred to some tragic incidents that have already occurred on our waterways this season. I advise the house that, as part of a wide range of initiatives through the Marine Board of Victoria, the government will be taking a number of actions to prevent further occurrences of this type. They will include the provision of general information about safety for boaters, specific directions for jet ski operators, and advice on safe operating speeds and the importance of life jackets.

Some members may be aware of a tragic occurrence in Tasmania recently which resulted in the deaths of a number of people who were not wearing life jackets. An important focus of the education campaign is to ensure a similar occurrence does not occur in Victorian waters.

Waterways managers have been asked to distribute the safety information throughout the summer, but there will be particular emphasis on Sundays 5 and 19 December. That information supplements information already distributed in the *Victorian Boating Guide*, which has gone out with registration renewals to all powerboat owners.

The boating safety information trailers operated by the marine board will be stationed at major boat ramps and boating events during summer. The ramps will include those at Mornington, Carrum, Geelong, Werribee, Beaumaris and a range of regional locations including the Gippsland Lakes, Maryborough and Moe. This season the trailers have already been used at Horsham, Lake Boga and Lake Nagambie. The trailers provide a focal point and presentation area at which specific

boating issues can be discussed. Once again, the focus will be on the important — —

Honourable members interjecting.

The PRESIDENT — Order! I try to be fair to both sides of the house. One of the longstanding rules of the house is that while a member is speaking I will not allow other members to talk over that member. I ask the members of the opposition on my left to desist from interjecting while the minister is responding.

Hon. C. C. BROAD — In conclusion, I point out that the focus of the campaign is on the important matter of encouraging all boat users to wear life jackets throughout the summer.

Minister assisting the Minister for Workcover: responsibilities

Hon. R. M. HALLAM (Western) — My question is to the Honourable Monica Gould. By way of background I make the point that Ms Gould has been formally commissioned as Minister assisting the Minister for Workcover. In that capacity, will she explain to the house what precise responsibility attaches to that ministry, for which she accepts accountability?

Hon. M. M. GOULD (Minister assisting the Minister for Workcover) — As I have indicated to the house previously, my role as Minister assisting the Minister for Workcover is one of assisting him as directed from time to time.

Toys: safety

Hon. JENNY MIKAKOS (Jika Jika) — Will the minister for fair trading inform the house what the government intends to do about the sale of dangerous toys at Christmas this year?

The PRESIDENT — Order! I presume this question is to the Minister for Small Business or the Minister for Consumer Affairs, not the minister for fair trading, as that ministry does not exist.

Hon. JENNY MIKAKOS — The Minister for Consumer Affairs, Mr President.

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

Hon. G. R. Craige — You can't even get them to get the questions right.

The PRESIDENT — Order! I suggest the house allow the minister to respond.

Hon. M. R. THOMSON — Every Christmas concerns are raised about a flood of toys unsafe for children. This year two such dangerous toys have already been found by inspectors from the Office of Fair Trading. One proprietor in North Fitzroy has been prosecuted for the sale of toys that expand when exposed to water. Such a toy would be a big risk to children under the age of three years, who tend to pop toys into their mouths. The toys expand and children could choke on them.

The government asks that consumers be on guard when purchasing toys: they should look at the labels and age recommendations. I ask that honourable members in their own electorates make their constituents aware of the problems of unsafe toys sold in the Christmas period. Toy manufacturers have raised the issue with the government and are assisting the government in its endeavours to identify dangerous toys.

RAIL CORPORATIONS AND TRANSPORT ACTS (MISCELLANEOUS AMENDMENTS) BILL

Introduction and first reading

Hon. C. C. BROAD (Minister for Energy and Resources), by leave, introduced a bill to amend the Rail Corporations Act 1996 and the Transport Act 1983, to make consequential amendments to certain other acts and for other purposes.

Read first time.

GAS INDUSTRY (AMENDMENT) BILL

Introduction and first reading

Hon. C. C. BROAD (Minister for Energy and Resources), by leave, introduced a bill to amend the Gas Industry Act 1994 to make further provision relating to non-franchise customers and for other purposes.

Read first time.

CRIMES AT SEA BILL

Introduction and first reading

Hon. M. R. THOMSON (Minister for Small Business), by leave, introduced a bill to give effect to a cooperative scheme for dealing with crimes at sea, to repeal the Crimes (Offences at Sea) Act 1978, to amend the Interpretation of Legislation Act 1984 and for other purposes.

Read first time.

PAPERS

Laid on table by Clerk:

Barwon Region Water Authority — Report, 1998–99.

Central Gippsland Region Water Authority — Report, 1998–99.

Central Highlands Region Water Authority — Report, 1998–99.

Coliban Region Water Authority — Report, 1998–99.

East Gippsland Region Water Authority — Report, 1998–99.

Glenelg Region Water Authority — Report, 1998–99.

Goulburn Valley Region Water Authority — Report, 1998–99.

Grampians Region Water Authority — Report, 1998–99.

Legal Aid — Report, 1998–99.

Lower Murray Region Water Authority — Report, 1998–99.

National Parks Act 1975 — Report of the Secretary, 1998–99.

North East Region Water Authority — Report, 1998–99.

Parliamentary Committees Act 1968 — Minister's response to recommendations in Federal–State Relations Committee's Report upon Register of Specific Purpose Payments received by Victoria.

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

Cranbourne Planning Scheme — Amendment L241.

Melbourne Planning Scheme — Amendment C17.

Melton Planning Scheme — Amendments C6 and C9.

Monash Planning Scheme — Amendment L53.

Port Phillip Planning Scheme — Amendment C13.

Stonnington Planning Scheme — Amendments L89 and L90.

Yarra Ranges Planning Scheme — Amendment L114.

Yarriambiack Planning Scheme.

Police — Chief Commissioner's Office — Report, 1998–99.

Portland Coast Region Water Authority — Report, 1998–99.

Premier and Cabinet Department — Report, 1998–99.

South Gippsland Region Water Authority — Report, 1998–99.

South West Water Authority — Report, 1998–99.

Statutory Rules under the following Acts of Parliament:

Forests Act 1958 — No. 122.

Magistrates' Court Act 1989 — No. 121.

Subordinate Legislation Act 1994 —

Minister's exception certificate under section 8(4) in respect of Statutory Rule No. 121/1999.

Minister's exemption certificate under section 9(6) in respect of Statutory Rule No. 122/1999.

Westernport Region Water Authority — Report, 1998–99.

Western Region Water Authority — Report, 1998–99.

A proclamation of His Excellency the Governor in Council fixing an operative date in respect of the following Act:

Courts (General Amendment) Act 1995 — Section 4 — 1 December 1999 (*Gazette No. G47, 25 November 1999*).

HEALTH PRACTITIONERS (SPECIAL EVENTS EXEMPTION) BILL

Second reading

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

That this bill be now read a second time.

The principal aim of the bill is to authorise visiting health practitioners to provide health care services to visitors in Victoria, in connection with designated special events, while exempting such practitioners from the provisions of Victorian law relating to health practitioners.

The Victorian government has made a commitment to host rounds of both the men's and women's football — soccer — competitions of the Olympic Games in September 2000. In addition, there may be other visiting teams associated with the Olympic Games who use facilities in Victoria for training prior to the games.

Over any year Victoria also hosts special sporting, cultural and other events which bring teams or groups of participants from other countries into Victoria specifically to take part in the special event.

Many groups or teams associated with special events are accompanied by health practitioners who provide health services to the visiting group or team participants. Formal registration processes as provided for in the existing Victorian health practitioner

registration acts are not deemed necessary for visiting health practitioners to provide services to members of a visiting team or group.

Provision is made in this bill for the Minister for Health to declare a special event in the *Government Gazette*. Visiting health practitioners will then be exempted from the offence provisions contained in a health registration act and from those contained in the Drugs, Poisons and Controlled Substances Act and its regulations.

Furthermore, visitors who are members of a team or group who are visiting as part of a declared special event will be exempt from any offence provision contained in the Drugs, Poisons and Controlled Substances Act and regulations relating to the possession or use of a drug or poison, where the drug or poison has been prescribed or supplied to them by a visiting health practitioner.

The bill also makes provision for a person who is licensed to supply or sell a drug or poison to be exempted from offence provisions of the Drugs, Poisons and Controlled Substances Act and regulations when the sale or supply is to a visiting health practitioner.

Similarly, a pharmacist who dispenses a prescription written by a visiting health practitioner is also exempt from offences under the Drugs, Poisons and Controlled Substances Act and regulations.

The bill authorises visiting health practitioners to provide health services to any visitor during an exemption period of a special event; and authorises visiting health practitioners to use any title he or she normally uses in providing health services and to hold himself or herself out as being able to provide those services.

Visiting health practitioners are also able to prescribe or supply a drug or poison to a visitor and to obtain or purchase drugs or poisons for supply to a visitor.

In addition to the above exemptions and authorisations, the ministerial special event order will specify the exemption period, and impose conditions, restrictions or limitations on visiting health practitioners relating to services to be provided or to the security or storage of drugs and poisons in their possession.

This bill will streamline the process necessary for a visiting health practitioner to provide health care services to a member of a group or team associated with a designated special event.

I commend the bill to the house.

Debate adjourned on motion of Hon. W. R. BAXTER (North Eastern).

Debate adjourned until later this day.

ESSENTIAL SERVICES (YEAR 2000) BILL

Second reading

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

That this bill be now read a second time.

I am sure that all members of the house are aware that the year 2000, or Y2K, problem may potentially pose a significant threat of upset to the everyday lives of all Victorians.

Of course, our hope is that the recent efforts made by both government and industry are successful to ensure that there will not be Y2K failures of computer systems and equipment. Despite these efforts, protection against Y2K failure is not guaranteed.

Following the tragic Longford gas plant incident of 1998 we have all experienced the difficulties of day-to-day living without essential services such as gas. While the people of this state showed great adaptability and community spirit in a time of adversity, the cost of the disruption to business was significant.

As a consequence of this incident and in light of previous major service failures in the Australasian region — such as the Auckland electricity supply failure and Sydney water supply failure — a review of Victoria's security of supply and emergency management arrangements was conducted.

A contingency planning process has been undertaken and a review of existing emergency powers and essential services legislation has concluded that this legislation may be potentially outdated and inadequate to effectively manage technological problems arising as a consequence of Y2K.

As part of the contingency planning process, the government aims to ensure that government departments, funded agencies and service providers are prepared well before 31 December 1999 to deal with all eventualities associated with possible Y2K failure.

The government has an additional responsibility to ensure that it can respond in such an emergency to effectively manage a disruption to essential services.

The bill is specific to the Y2K problem and will provide the necessary powers to manage Y2K problems. Where the Governor in Council is satisfied that any essential service is affected as a result of Y2K so as to be unable to meet the community's needs, the Governor may make an order that this bill is to apply. Additionally, the Governor in Council may make a declaration that any service is an essential service. Such a provision may be used to declare food an essential service if it were necessary to regulate food storage and distribution.

Where the Governor has declared that this bill is to apply, the responsible minister will have the power to give directions to any person for the purpose of maintaining or resuming essential services. Such directions may be for the purpose of regulating, restricting and rationing these essential services, having regard to the needs of the community.

In addition, there will be tough enforcement provisions to punish those persons or corporations who feel their own needs to be more important than those of their fellow Victorians and who choose to disregard such directions by continuing to use essential services.

There may be those that feel that the powers given to the minister are so broad as to be almost draconian. In response I ask members to note that the private and public sector have had the opportunity for quite some time to undertake contingency planning and Y2K compliance programs.

If these programs are successful the powers under this bill should theoretically be unnecessary. However, this bill ensures that the state government has met its responsibilities to provide for effective management of Y2K problems if contingency and emergency planning is inadequate.

Additionally the bill will make an amendment to the Emergency Management Act 1986 to clarify the definition of emergency to include significant disruptions to essential services or commodity supply systems. This is designed to increase certainty for agencies who have responsibilities under the act as to the circumstance under which they are required to act. As such these agencies will be in no doubt that they will have emergency management responsibilities for Y2K situations, in addition to fires, floods and explosions which are currently defined as emergencies under the act.

Several key dates have been identified in relation to the Y2K problem, including 1 January 2000, 29 February 2000 and 1 January 2001. Accordingly the act will sunset within six months of the end of the potential Y2K danger period.

Statement under section 85 of the Constitution Act 1975

Clause 32 of the bill provides immunity from legal action for persons who act in good faith in the execution of part 2 of the act or any proclamation or ministerial direction under part 2. Clause 33 states that it is the intention of clause 32 to alter or vary section 85 of the Constitution Act 1975.

The reason for altering or varying section 85 of the Constitution Act 1975 to limit the jurisdiction of the Supreme Court is to ensure that persons acting in good faith in the execution of part 2 of the act or any proclamation or ministerial direction under part 2 are immune from suit as these people are acting in the public interest and should be confident that their actions will not be exposed to legal action.

I commend the bill to the house.

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

Debate adjourned until later this day.

LEGAL PRACTICE (AMENDMENT) BILL

Second reading

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

That this bill be now read a second time.

This bill makes a number of miscellaneous amendments to the Legal Practice Act 1996 to improve the efficient operation of the Legal Profession Tribunal.

Power to disqualify practitioners

The Legal Practice Act 1996 empowers the Legal Profession Tribunal to disqualify lawyers who have been found guilty of misconduct. As the right to practice law in Victoria flows from the possession of an annual practising certificate, disqualification from practising law is similarly linked to the cancellation of a practising certificate or the ineligibility to obtain a fresh one.

However, a lawyer can surrender a practising certificate at any time. By surrendering the certificate or by not renewing it when it lapses a lawyer may ensure that at the time he or she is convicted they no longer hold a practising certificate. If there is no certificate to cancel,

arguably there is no clear power in the tribunal to impose a disqualification period. The lawyer could therefore be eligible to apply for a new practising certificate immediately after being convicted. The tribunal is currently relying on its general powers to disqualify lawyers even though there has been no prior cancellation of a practising certificate.

To put this issue beyond doubt, the act will be amended to provide the tribunal with clear power to impose a period of disqualification on a lawyer even where it has not first cancelled the lawyer's practising certificate.

In conjunction with this the tribunal will acquire a discretion as to whether to refer such practitioners to the Supreme Court with or without a recommendation that the practitioner's name be struck off the roll of practitioners.

Civil disputes jurisdiction

The Legal Profession Tribunal has effectively a small claims jurisdiction for the handling of civil disputes, often over costs, between a client and lawyer. Whilst the maximum amount that the tribunal can award is $15 000 there is no limit as to the amount that can be in dispute in non-cost related disputes, for instance, those alleging negligence.

Recently there has been an increase in the number of claims brought before the tribunal for amounts well in excess of $15 000. Many complainants are using the tribunal as a trial run for their larger common-law claim, or using the tribunal process as a fishing expedition to gather evidence. The result of this has been a huge drain on the tribunal's resources. Hearings can last for weeks, requiring the tribunal to examine thousands of documents and hear lengthy and complex evidence.

The tribunal was never meant to handle complex civil litigation. It was established to assist claimants, particularly those with limited financial resources, to resolve minor disputes. Complex civil matters properly belong in the courts and it is not appropriate for the limited resources of the tribunal to effectively subsidise parties seeking to avoid the usual costs associated with civil litigation.

To ensure that the original intention of the act is maintained the proposed amendments will give the tribunal a discretion to refer such matters for hearing in the appropriate court.

Cost of obtaining transcripts

With longer and more complex evidence being presented, the costs of the tribunal of obtaining a transcript of evidence for use of the full tribunal on appeal is also increasing. To address this issue the act is amended to give the full tribunal a power to order that a party pay the full tribunal's cost of obtaining transcript of a hearing before the tribunal at first instance.

I commend this bill to the house.

Hon. C. A. FURLETTI (Templestowe) — I have pleasure in supporting the bill, and in doing so indicate that the Legal Practice Bill 1996 was one of the first pieces of legislation I had the pleasure of contributing to in this house. Having practised law for almost 30 years I found it awkward to debate a bill which impacted so dramatically on the profession. The bill was the culmination of various changes to the legal profession from when I was admitted in the late 1960s.

The Legal Practice Act was revolutionary in the way it reformed the control, structure, membership, supervision, conduct and practice of law in this state. It was the most dramatic overhaul of the Victorian legal profession in more than a century. The act is of major proportions: it contains more than 450 sections. As an example of its complexity I cite schedule 2, a savings and transitional schedule of almost 60 sections.

Because of the act's complexity, the former government introduced some three or four amending bills over the four years after its enactment. However, considering the impact of the act, the fact that so few minor amendments have been made is an indication of how successful it is. It is a fine reflection on the enormous amount of consultation that took place with all interested parties before the legislation was introduced. I remember commenting at the time of debate on the legislation that there was little doubt that some finetuning would be necessary. However, as I have indicated, the fact that that finetuning has been kept to a minimum shows the great benefit of a large degree of consultation and of putting in the effort at the beginning rather than later on.

Notwithstanding the views and perceptions of many, the legal profession is an honest profession. I have spent all my working life as a practising solicitor, and I am certainly proud to be part of the profession.

It was interesting to note that, notwithstanding many of the reasons given for the revolution that was to take place — one of those being the honesty or otherwise of members of the profession — the statistics showed that

of the 8000-odd practising solicitors in 1995–96, only 7 or 8 defalcations had occurred.

It is also interesting to note that on last year's figures, of the 4000-odd complaints that were lodged with recognised professional associations and the Legal Ombudsman, only a very small percentage actually reached the Legal Profession Tribunal. That indicates that most of the complaints were either of a minor nature or were resolved without recourse to the ultimate umpire dealing with the legal profession.

The dispute resolution part of the Legal Practice Act is one of the most effective pieces of consumer protection legislation introduced in Victoria. In that respect the Legal Practice Act deals with two specific areas: the disciplinary aspect, which relates to the conduct of legal practitioners vis-a-vis their clients; and that area of complaint or dispute which has no element of unsatisfactory conduct or misconduct as defined in the act.

The structure set up to resolve disputes — the minister described it as a small claims tribunal in the second-reading speech — involves a series of processes that inherently include mediation and conciliation through the recognised professional associations. Another level — the Legal Ombudsman — overrides the RPAs. It is an independent nexus, if you like, with the following level — the Legal Profession Tribunal — comprising either one member or three members on appeals as the full tribunal. The system appears to be working exceptionally well, as can be seen not only from reports but also by the number of people using that forum to resolve disputes.

Although it is appropriate to have differences between the imposition of discipline and restraints on miscreants within the legal profession, the tribunal also has power to adjudicate costs disputes between solicitors and their clients and has extended power to make compensation orders for up to $15 000 against practitioners and in favour of clients. That aspect of the tribunal's jurisdiction has attracted a number of claims that perhaps were not anticipated in 1996 when the legislation was introduced.

As I said earlier, it was intended that the legislation be a form of rapid resolution of disputes between solicitors and their clients. However, according to the tribunal, it has turned into a forum that is being abused in that it is attracting claims for in excess of $15 000, which are not in real issue. The tribunal is attracting claims for determination and is being used as an avenue for a dry run, if you like, or the first of two bites of the cherry. A number of claimants can go from the tribunal to the more appropriate forum, the courts. Using the documentation they have obtained through the discovery process, or using the information and defences that have been used in the tribunal, they can evaluate the strength of their own cases in determining whether to proceed.

Having practised as a solicitor for a number of years, it would appear to me that that is a terrific way of determining whether to progress a case that may not have the legal strength that one would like. If the issues are not resolved favourably in the tribunal, costs are generally not awarded and the party has been able to achieve an indication of the success of the claim without necessarily running the risk of formal litigation in the courts and the incumbent costs associated with that scenario.

Solicitors have been blamed for using that tactic — and it is a tactic — but the avenue exists. I would not blame a solicitor for using the process because, as we all know, solicitors are obliged to seek to do the best for their clients. If, in the course of their brief or engagement, they see fit to test the case and this avenue exists — it is a legal avenue and no-one is suggesting otherwise — they should be able to do so, and they do. However, the tribunal suggests the tactic has imposed some unexpected burdens on it. Apart from the cost of time and effort — some of these cases take weeks — there is also the question of resources and the complexity of the cases that are brought before the tribunal. For those reasons the tribunal has requested that the legislation be amended so that on the application of either party to the claim, the tribunal can suggest it is not an appropriate forum for a claim to be brought and refer the matter to a court with the appropriate notations. I stress that the tribunal has sought to have the legislation amended because of a perception that this is not part of the jurisdiction it was established to handle. I remind the house that the bill was prepared under the previous government, and that is the primary reason that it has the support of the opposition.

Another provision of the bill gives the tribunal the power to deal with practitioners who have been found to have engaged in unsatisfactory conduct or misconduct to an extent that their practising certificates are put at risk. The processes for procuring a practising certificate are fairly detailed, and a practitioner will not obtain one unless a number of preconditions are met, including contributions to the fidelity fund, proof of professional indemnity cover, and the like.

Sections 159 and 160 of the Legal Practice Act provide the tribunal with the power to deal with unsatisfactory

conduct and misconduct, and include suspension or cancellation of or the imposition of conditions on a practising certificate.

If a practitioner has surrendered his or her practising certificate or it has lapsed before the tribunal makes a determination with respect to the certificate, it is uncertain whether the tribunal has the power to make an order that could affect the practising certificate. Therefore, if the tribunal was minded to cancel a certificate, there would be no certificate to cancel. Some doubt exists as to whether in those circumstances the tribunal would have the power to disqualify the practitioner from applying for a practising certificate in the future.

Some doubt exists whether the tribunal can act, as could a magistrate in the case of a driving licence, to disqualify somebody from holding a licence for months or years. The bill aims to give the tribunal the power not only to cancel an existing certificate but also to disqualify a practitioner who has been found guilty of misconduct from applying for a practising certificate for a particular period.

The third major amendment in the bill relates to the costs of obtaining a transcript of a hearing before the tribunal in the first instance. As a result of the increased workload and jurisdiction of the tribunal, with the complexity of the issues being brought before it and the expected ongoing litigation arising from the use of the tribunal for the purpose of dry-run hearings, it has become increasingly necessary to ensure transcripts are available for any appeals against decisions of single members of the tribunal. The cost of the transcripts has been borne by the tribunal, but the tribunal now believes that, given the circumstances, it is appropriate that it should have power to award costs on appeal and clause 7 refers to the cost of obtaining a transcript of the hearing being included in the costs to be awarded.

The bill is another refinement to a good piece of legislation which has been operating in Victoria for almost four years. It finetunes matters that have arisen during the tribunal's operations. I am pleased to have had the opportunity to support the bill, and I wish it a speedy passage.

Hon. D. G. HADDEN (Ballarat) — I support the Legal Practice (Amendment) Bill, which contains a number of important miscellaneous amendments to the Legal Practice Act. The bill aims to improve the efficient operation of the Legal Profession Tribunal and strengthens its powers to deal with disputes, especially the power to disqualify legal practitioners who do not hold current practising certificates at the time orders are made against them.

Clause 6 amends section 160 of the principal act, which relates to penalties for misconduct. The Legal Practice Act allows the tribunal to disqualify a legal practitioner holding a current practising certificate, but only when the practitioner is found guilty of misconduct.

The right to practise law in Victoria is governed by the holding of a current practising certificate. A legal practitioner can surrender that certificate or simply not renew it at the expiration of its term. Therefore, a legal practitioner who is about to appear before the tribunal and is facing a conviction for misconduct could either surrender his or her current practising certificate or not renew it. That situation poses problems for the tribunal. The full tribunal's power to impose a penalty would be curtailed.

In simple terms, the practising certificate of a legal practitioner cannot be cancelled if the practitioner does not hold a current certificate. It is similar to a person not holding a driving licence when he or she appears on a driving offence. There is no specific power with the tribunal to disqualify a legal practitioner. The tribunal has been relying on its general powers, which is unsatisfactory.

The bill gives the full tribunal the power to disqualify for a specified period a legal practitioner from holding or applying for a practising certificate so as to practise law. Clause 6 of the bill amends section 160 of the Legal Practice Act to provide that the tribunal may refer a legal practitioner to the Supreme Court with or without having made a recommendation about that legal practitioner's name being struck off the roll of practitioners.

Through the insertion of proposed section 136A, clause 5 deals with recommending matters to a more appropriate forum. That will allow the tribunal to more effectively deal with small claims disputes in line with the original intention of the act. The Legal Profession Tribunal has power to deal with small claims that often involve disputes about costs between clients and practitioners. At the moment the maximum amount the tribunal can award in a civil dispute is $15 000; problems have arisen about amounts in excess of that figure. Hearings have become costly for the tribunal, with a consequent drain on its resources. That situation was not contemplated in the act.

The bill gives the tribunal the power to dismiss the dispute and to refer it to the relevant court or appropriate forum.

Proposed section 169A(1) will enable a full tribunal, in an appeal, to make an order regarding the cost of obtaining a transcript of a hearing before a tribunal at first instance. As I said, the cost and length of such proceedings have increased, as has the complexity of the evidence. The amendment will give the full tribunal power to order a party to pay the full tribunal's costs of obtaining a transcript of a hearing before the tribunal at first instance.

Proposed new section 160 amends the principal act to extend the discretion of the tribunal to refer a legal practitioner to the Supreme Court with or without a recommendation that the practitioner's name be struck off the roll of practitioners.

The bill's amendments will improve the efficiency and operation of the Legal Profession Tribunal. I commend the bill to the house.

Hon. JENNY MIKAKOS (Jika Jika) — As a current holder of a legal practising certificate in Victoria, I support the bill. I am sure the amendments will assist in the restoration of confidence in legal practitioners by their clients.

Proposed section 136A amends part 5 of division 2 of the Legal Practice Act 1996 to allow the tribunal, constituted by the registrar or deputy registrar, or the full tribunal to dismiss a dispute if it considers the dispute would be better dealt with by a court.

When the tribunal was established it was envisaged that it would mainly act as a disciplinary tribunal but also deal with civil disputes arising between legal practitioners and their clients. The tribunal was given jurisdiction to deal with civil disputes up to a maximum of $15 000 to avoid a situation whereby clients were required to commence legal proceedings in the court system to recover small amounts of legal costs which may have been excessively charged by their legal practitioner. Unfortunately, some disgruntled clients are seeking to recover amounts well in excess of the $15 000 jurisdictional limit and to introduce lengthy and complex evidence before the tribunal, which is causing the tribunal an excessive backlog in its dealing with such disputes. Some clients may well be using the tribunal process as a fishing expedition to determine whether to commence formal legal proceedings for an amount well in excess of $15 000. Effectively, proposed section 136A will allow the tribunal to refer such complex disputes to a court.

Proposed new section 160 amends certain sections of part 5 of division 5 of the Legal Practice Act 1996 which relate to the disciplinary jurisdiction of the tribunal. Proposed new section 160 will allow the full tribunal to refer a practitioner to the Supreme Court with or without a recommendation that the practitioner's name be struck off the roll of practitioners.

The act has two categories of misconduct. Unsatisfactory conduct is a lower category of offence. Section 160 refers to the penalties for misconduct, which is ostensibly defined in section 137 of the act. Misconduct is fairly grave in that it refers to excessive charging of legal costs by a practitioner and issues such as ignoring undertakings previously given by a practitioner.

The tribunal can order fines of up to $5000 or $50 000 where the full tribunal is hearing the matter. A legal practitioner's practising certificate can be suspended or cancelled for a specified period and under specific conditions. The tribunal can recommend to the Supreme Court that the name of a legal practitioner be struck off the roll of practitioners. The amendment seeks to give the tribunal a discretion on whether to make such a recommendation.

The proposed new section also gives the tribunal power to order, where appropriate, that a legal practitioner found guilty of misconduct not be allowed to reapply for a practising certificate for a specified period. The amendment is necessary because unfortunately some legal practitioners who have such proceedings commenced against them have sought to circumvent the disciplinary jurisdiction of the tribunal by either surrendering their legal practising certificates or not renewing them when they have lapsed. There is some doubt as to whether the tribunal has the ability or the power to suspend a legal practitioner from holding a current practising certificate, which he or she obviously does not hold at the time, or even to order that the legal practitioner involved not be able to reapply for a legal practising certificate.

At present I understand the tribunal makes such orders under its general plenary powers, but there is some doubt whether it has the ability to do so. The amendment will seek to clarify that position and ensure that the tribunal has the power to prevent a legal practitioner who has been found guilty of misconduct from reapplying for a practising certificate.

In supporting the bill, particularly the amendments to section 160, I believe all legal practitioners will support such changes to the disciplinary jurisdiction of the tribunal because unfortunately — and I say this as a current holder of a practising certificate — sometimes the few rotten apples in the barrel give all legal

practitioners a bad name. For that reason I am sure most legal practitioners will welcome a position where lawyers are not able to circumvent or find loopholes, as they do under the current Legal Practice Act. The tribunal and the Supreme Court will be able to fully apply some sanctions against those practitioners found guilty of misconduct.

Clause 7 of the bill seeks to amend section 169A of the Legal Practice Act. That section relates to part 5 division 6, which deals with appeals from decisions of the tribunal. Currently section 169A allows the full tribunal to make orders for the payment of costs. The amendment seeks to extend the effect of the section to include the costs of obtaining transcripts of proceedings held by the tribunal in the first instance. As I said at the outset, the reason for the amendment is that proceedings before the tribunal, particularly civil disputes, are becoming lengthier and more complicated as time goes on, and are draining the tribunal's resources excessively. The amendment will seek to rectify the situation by giving the tribunal such a discretion. I commend the bill to the house.

Motion agreed to.

Read second time.

Remaining stages

Passed remaining stages.

HEALTH PRACTITIONERS (SPECIAL EVENTS EXEMPTION) BILL

Second reading

Debate resumed from earlier this day; motion of Hon. M. M. GOULD (Minister for Industrial Relations).

Hon. W. R. BAXTER (North Eastern) — This is an interesting piece of legislation; it demonstrates in stark terms that currently Parliament is operating in a deficient mode because the government has not properly instituted the usual checks and balances one would expect in Parliament. The bill is a classic example of the sort of legislation that ought to go to a committee similar to the former Scrutiny of Acts and Regulations Committee. It is an absolute disgrace that in the fourth week of the sitting under the new government we are dealing with legislation without a vehicle being in place to properly scrutinise legislation. It flies in the face of the Bracks minority Labor government's undertakings for that to occur after it has cosied up to the Independents in relation to their charter and given all sorts of commitments about how Parliament would be better resourced, the government would be more accountable, and the like. I expect the government to move soon to put in place an appropriate parliamentary committee structure; otherwise its commitments will begin to appear very hollow.

The bill has become necessary because of the approach of the Sydney Olympics. I do not think anyone would oppose the principle behind the legislation. Many teams visiting Australia to participate in the Olympics will want to bring their own medical practitioners. The opposition understands that and wants the Olympics to be an outstanding success and a great boost for Australia on the world scene. It is in the interests of each honourable member to facilitate that success.

However, I have concerns with the implementation of the legislation. I see potential dangers in the exemptions the bill provides and potential hazards with the fairly wide allowance it makes for the prescribing of drugs, including narcotics. I bear in mind the problem that already exists in this country with drugs, and more particularly the stringent restrictions that are imposed on medical practitioners and pharmacists in Victoria — rightly so — for the prescription of drugs. Together with its provisions for the declaration of special events and so on the legislation seems to introduce a much more lax regulatory regime for the prescribing of such drugs. I am especially concerned to ensure that is kept under tight reign. In a moment I shall refer to some of the undertakings given by the minister in another place.

To some degree I am surprised by the readiness of the government to agree to allowing foreign-trained doctors to practise in Victoria, albeit only in respect of the teams to which they are accredited. I have had some experience in trying to have foreign-trained doctors accredited to service some rural parts of my electorate, and I am sure you, Mr Deputy President, have experienced the same thing in north-western Victoria. I can recall that not so long ago a Croatian-trained doctor at Tongala was eventually forced to leave the country because he could not get past the Medical Board of Victoria and the doctors trade union, the Australian Medical Association. Doctors must aspire to high benchmarks — clear high hurdles — if they are to treat Australian citizens.

A more recent example occurred in Echuca when a Dr Win — a psychologist who is very highly trained in his own country and who had practised in Australia with the correct registration for some time — was suddenly given an ultimatum that his registration would be withdrawn unless he qualified by passing certain exams in Australia. Another recent example involved a doctor in Barham, just across the river from my

electorate, who for some time provided extremely valuable services to a wide area of the Riverina that had been without a doctor. The South African-trained doctor in question had a great deal of difficulty having his credentials recognised.

I do not necessarily dispute the need for high benchmarks. However, I direct attention to the contrast between what those applicants had to go through and what is proposed in the bill. The bill proposes that provided the minister declares an event to be a special event within the meaning of the act, a person who might not be qualified by any stretch of the imagination in an Australian understanding of the term can administer to a visiting team provided he or she is employed, engaged or contracted by that team. That introduces a low hurdle for the quality of the medical service that may be rendered.

It is all very well for the more cynical among us to say, 'If a team is prepared to accept medication and care from someone with flimsy qualifications, that is its own funeral'. It is necessary to be a little tougher than that and to ensure that people being treated in this country — —

An honourable member interjected.

Hon. W. R. BAXTER — Yes, perhaps that was an inappropriate analogy; I will rephrase it. It is incumbent on Australians to ensure that visitors to this country are treated properly and adequately. The bill takes a fair bit on trust and does not ensure that at all. The teams will have to make those judgments for themselves.

I am also intrigued to discover there has been precious little consultation with the various medical boards listed in the bill. It has been taken for granted that they will agree to the bill's provisions. Bearing in mind that their traditional authority is usurped by those provisions, I should have thought some consultation between the boards and the current government might well be proposed.

I understand that the former government began consultation with them but that consultation was not continued by the current government. It is all very well for government members to come into this place and say, as I have no doubt they will, that the legislation had its genesis under the former government. That is true, but that is not to say that if the former government had remained in office the legislation would have come to this house in the form it takes today. The former government, to its everlasting credit, had a mature and efficient backbench consultation vetting organisation. If backbenchers were not happy, they said so or sent back whatever they were reviewing. As a former minister I well know the lash of the backbench committee.

If the government had not changed on 18 September, the bill would have been substantially tightened up and made much more specific than it is. It is simply not good enough for the government to allege the legislation emanates from the former government and therefore any deficiencies it might have are the fault of the former government . The system was interrupted or truncated and the legislation was not finalised.

One illustration of how the legislation could have been tightened up is in the definition of visitor. The definition of a visitor in the bill is peculiar, as it includes and encompasses a resident of Australia. It is difficult to understand how a resident of Australia could be deemed a visitor for the purposes of the act, but that is the definition. That matter may well have been looked at if the government had not changed.

Regarding that same definition, I am also concerned that presumably someone who is a resident of Australia but falls within the definition of visitor for the purposes of the bill can be treated by his or her usual doctor, to whom the person goes from time to time, and then seek treatment and the prescription of medication from a visiting medical practitioner. Surely there is room for conflict there. The visiting medical practitioner is able to go a lot further than the Australian registered practitioner in prescribing medication to the same patient. The bill is entirely silent on the circumstances in that case. I flag the potential for a conflict arising between an Australian registered practitioner who traditionally and habitually treats a patient who qualifies under the definition of visitor in the bill and some visiting medical practitioner, who may have exceptionally dodgy qualifications. I ask the government to look at that conundrum.

In the area where I live, on the border at Albury–Wodonga, a number of teams will be training, having come out early to acclimatise for the Olympic Games. In the midst of Albury–Wodonga medical practitioners there could be medical practitioners of doubtful qualifications treating people living in the community — for six months, eight months or more. Again I can foresee difficulties. I do not want to sound as if I am jumping at shadows; I hope I am not. But the bill seems not to take those potential difficulties into account.

Local pharmacists could be put under pressure to dispense drugs they would not normally be entitled to dispense, including narcotics, to visitors over a long period. All honourable members would know about the

monetary influence of drug-related transactions and the potential for matters to get out of hand. There is the potential for people to set up cosy little drug businesses: the bill does not address that possibility. Again, I do not want to be jumping at shadows. One need only look at what is going on in Victoria regarding drugs to see that the risk of drugs is not addressed in the bill.

I do not want to proceed at length on the bill. I congratulate the shadow Minister for Health in another place on the manner in which he drew the government's attention to a range of potential problems in the legislation and the need to tighten it. By the same token I am prepared to commend the Minister for Health in the other place on taking on board the points made by the honourable member for Malvern and giving an undertaking to be very specific in declarations he will make as Minister for Health in declaring events that will come within the ambit of the act. He will not give general orders or orders that last for an excessive amount of time. That gives me reason to believe the legislation is workable. It certainly gives me some reassurance.

I note that the shadow minister in another place accepted those assurances in good faith and did not pursue in committee a number of areas that he otherwise would have taken on board. The debate in another place can be described as an illustration of the Parliament working as it should. Legislation was introduced, examined by the opposition and found to be wanting in some respects. Deficiencies were pointed out and the minister took matters on board and gave the required undertakings and assurances. On that basis the opposition will not oppose the bill.

Hon. KAYE DARVENIZA (Melbourne West) — It is clear why the Health Practitioners (Special Events Exemption) Bill should be introduced and passed. Australia is very much a sporting nation — Australians love sport. They love to watch it and participate in it, and they do so at all levels: national, international and elite.

Australians expect that the teams and athletes involved in international sporting events will receive the best in health care and support from medical practitioners in training leading up to events they are participating in, as well as during and following the events. That is exactly what the bill ensures. It addresses the need for athletes from other countries, when coming here to participate in sporting or cultural events, to be confident that they have medical practitioners who will accompany them and be able to give them the support they require.

Another honourable member referred to the Joeys, Australia's under-17 soccer players, who competed in the world cup final in New Zealand. The Joeys are another example of the many Australians who participate in a range of international sporting events, whether they involve soccer, cricket, rugby, athletics, netball or hockey. The Joeys did a fantastic job in the under-17 world cup, coming within a fairy's breath of winning. I am sure I speak for all honourable members when I say how proud we are of them. It is a shame we cannot do something about that penalty shoot-out provision!

The purpose of the bill is clear. As I said, it affects people who come to Victoria to participate in international sporting events or cultural activities. The bill will allow visiting health practitioners to provide health care services for those competing in special events in Victoria without having to be registered under state law.

Victoria hosts an increasing number of sporting and cultural events and encourages overseas visitors to come here to participate in them. Those visitors want to know they have access to health support services provided by health support personnel in whom they have confidence — in other words, their own health practitioners. That is because they have an understanding of the medical histories of the participants, the sports or cultural events they are participating in and the training regimes they undertake, and the types of complications or injuries that might occur as a result.

The participants also want to feel confident that their health practitioners will be there to see them through those injuries or complications. The importance of the psychological aspects of sporting performance is increasing, and participants want to have with them practitioners who will look after them in that regard.

As Mr Baxter has already pointed out, on 24 November the bill was examined in committee in the other place, after which it was passed with bipartisan support. The bill was drafted under the instructions of the previous government and then considered by the previous cabinet. Those members of the house who were ministers at the time know the history of the bill and the consideration the previous government gave to it.

The bill is necessary because of a memorandum of understanding the Victorian government entered into with the Sydney Organising Committee for the Olympic Games (SOCOG). The memorandum, which contains the details of agreements relating to Olympic events, was signed off by the previous government in

June. It requires the government to assist SOCOG in meeting its obligations to the International Olympics Committee without impediment so that assurances can be given that there are no national laws or provisions preventing Olympic medical staff from giving medical care and treatment to athletes, officials and visitors of the respective Olympic teams while they are taking part in the Olympic Games. The government has given an undertaking that it will support SOCOG in its efforts to meet the commitments it has given to the International Olympics Committee.

As Mr Baxter said, the bill is required primarily because of the 2000 Olympic Games. Victoria will be involved in putting on events associated with the games. For example, the soccer matches will be held here, and the state will play host to the teams training to participate in them. It will also play host to other teams that will use Victorian facilities to train for events that will be held in other states. Melbourne will also be the host city for the Commonwealth Games in 2006 and for other significant events.

As I said earlier, the government encourages the holding of sporting and cultural events in Victoria such as the grand prix, the Boxing Day test cricket, the rugby and international athletics.

Hon. K. M. Smith — Women's bowls.

Hon. KAYE DARVENIZA — The honourable member is right: I am sure Victoria hosts both national and international bowling events. The Werribee equestrian centre, which is in my own electorate of Melbourne West Province, is a nominated training facility for the Olympic Games. It hopes to play host to some of the contestants in the Olympic Games.

Other states have already enacted legislation to honour the undertakings they have given to support SOCOG's meeting its obligations to the International Olympics Committee. In 1997 New South Wales enacted the Health Professionals (Special Events Exemption) Act, which ensured that the host state of the Sydney Olympic Games would be able to fulfil its requirements by guaranteeing that no law or provision would preclude overseas medical staff from providing medical services, medical care and treatment to the athletes and officials of the competing teams. In 1998 Queensland gave effect to similar legislation to meet its obligations to SOCOG, and Western Australia has already passed legislation to the same effect. The Victorian Parliament needs to pass the bill to ensure it complies with the commitments the Victorian government gave in June.

The bill enables the Minister for Health to make a special event order, which will be published in the *Government Gazette*. The declaring of a special event order will mean that visiting health practitioners will be exempted from the offence provisions in the health registration acts and in the Drugs, Poisons and Controlled Substances Act and its regulations. Under the exemption from the health registration acts health practitioners will not be required to register with the regulatory boards covered by those acts. Clause 3 lists the relevant health registration acts: the Chiropractors Registration Act of 1996, the Dental Technicians Act of 1972, the Dentists Act of 1972, the Medical Practice Act of 1994, the Nurses Act of 1993, the Optometrists Registration Act of 1996, the Osteopaths Registration Act of 1996, the Pharmacists Act of 1974 and the Physiotherapists Registration Act of 1998.

As a former registered nurse, I have had some experience with the health registration boards. I was a member of the then Victorian Nursing Council, which has been superseded by the Victorian Nurses Board. It was responsible for not only registering nurses trained in Victoria but also giving recognition to those who had trained interstate and overseas. So I have experience and an understanding of the sorts of processes that must be gone through in seeking and being granted registration. I understand that the processes applying to the other registration boards are similarly lengthy.

Given that Sydney will be hosting the Olympic Games, Australia needs to have in place a legislative framework that ensures that teams coming to Australia to participate in sporting events associated with the Olympics are able to bring their medical practitioners with them to provide the support they require. The same is true of the other sporting and cultural events to which I have alluded.

Their exemption from the Drugs, Poisons and Controlled Substances Act and its regulations will allow health practitioners to prescribe, sell and supply medication in the course of providing health care to the visiting team members for whom they are responsible. It is clear that the only offences visiting health practitioners would be exempted from under the legislation are those contained in the health registration acts and the Drugs, Poisons and Controlled Substances Act — that is, offences dealing with unlicensed practice and/or the prescription, selling or supplying of substances by persons not authorised to do so. There are also exemptions for visitors who are members of a team or group that might be involved in a cultural event.

Members of a team or group that is here to take part in a declared special event will also will be exempt from the offence provisions of the Drugs, Poisons and Controlled Substances Act and its regulations. The exemption relates to the possession or use of medication — that is, a drug or poison — where the drug or poison has been prescribed or supplied by a visiting health practitioner. The bill proposes exempting from the offence provisions people who are prescribed or administered medication by an authorised medical practitioner exempt under the bill.

The bill will also exempt from the offence provisions a person licensed to supply or sell drugs or poisons — that is, such a person will not commit an offence if he or she sells or supplies designated scheduled drugs to an exempt visiting health practitioner. Similar provisions will apply to pharmacists. A pharmacist will not commit an offence when he or she fills out or dispenses a prescription written by a visiting health practitioner.

I take up a couple of the points made by Mr Baxter. Pharmacists do not prescribe medication; medical practitioners do that. Pharmacists simply dispense medication — and only on prescription. The bill exempts a pharmacist from being prosecuted for an offence when he or she is presented with a prescription written by a visiting medical practitioner exempted under the provisions of the act. The only drugs that can be prescribed by a visiting medical practitioner are those set out in the schedules.

Hon. M. T. Luckins — Including narcotics and anabolic steroids?

Hon. KAYE DARVENIZA — Yes, because narcotics are schedule 8 drugs and a medical practitioner can prescribe drugs set out under the Drugs, Poisons and Controlled Substances Act. A medical practitioner will be able to make a diagnosis, determine that a certain course of treatment is required, write a prescription for it, have the medication dispensed and ensure that the person who requires the treatment and medication can have it. All parties will be protected from the offence provisions of the act, whether it be the prescribing, dispensing or taking of medication.

The bill authorises health practitioners to provide health services to any visitor during a special event. As Mr Baxter said, a special event will be specified for a defined time. It will not go on forever; it will have defined starting and ending points. When the Minister for Health makes a special event order, consideration will be given to the required starting and ending times on a case-by-case basis.

The bill also provides that a ministerial special event order will specify the exemption period and impose conditions, restrictions or limitations on visiting medical practitioners relating to the services they can provide or the security or storage of the drugs or poisons in their possession.

In conclusion, the government is seeking the passage of a bill that will have the same effect in each state. A similar bill has been passed in other states so that they can honour their commitments to SOCOG. We need to pass the bill to honour our undertaking. The bill was examined in the committee stage in the other place, where it was passed with bipartisan support.

We should recognise the need to expedite the holding of special events. We do not want any encumbrance on their being held in Victoria. We do not want the members of an international organising committee who are considering holding a special event in Australia to say, ‘We won’t go to Victoria because it has no provision allowing us to bring our own health practitioners or team. Let’s go to New South Wales or Western Australia or one of the other states that has the necessary legislation in place’.

It is important that we attract as many special sporting and cultural events as we can. Victoria is recognised as the cultural heartland of Australia and many organisations and organising committees would be looking to Victoria to hold such events.

The encouragement and attraction of special sporting or cultural events to Victoria is a high priority of the Bracks Labor government. The government wants to encourage their staging in Victoria for a number of reasons. It wants people to visit Victoria and see what the state has to offer. It wants those special events to be the catalysts that bring visitors here so they can be exposed to Victoria’s many other fine facilities and attributes. The government also wants to give people the opportunity to enjoy the special sporting and cultural events. They will expose people to different cultures and different ways of life, which is particularly important for younger people.

Special sporting and cultural events attract tourists from overseas and interstate. Tourists coming to Victoria will encourage employment opportunities. I am sure that once the visitors get here they will be interested in seeing a lot more of Victoria. Apart from bringing in the tourist dollar, holding special cultural and sporting events also encourages the creation of the infrastructure for various events — the building of stadiums, theatres and so on. As I said, special events are an important priority of the Bracks Labor government. It wants to

encourage visitors not only to Melbourne but also to rural and regional Victoria.

Victoria needs this bill. It is important that Parliament honours the former government's commitment to the Sydney Organising Committee for the Olympic Games. Parliament should also support SOCOG in the commitments it has given to the International Olympic Committee. I commend the bill to the house.

Hon. M. T. LUCKINS (Waverley) — I also place on record my disappointment that the Health Practitioners (Special Events Exemption) Bill has not been dealt with by a scrutiny of acts and regulations committee (SARC). I was proud to be a member of such a committee for the last term of the previous government. The bill, which in my opinion has been hastily drafted and is deficient in many areas, would have benefited from an examination by SARC under its terms of reference. I urge the government to consider commissioning the parliamentary committees under the Parliamentary Committees Act.

I refer the house to the Independents charter and the government's mantra of transparent, open and accountable government. The previous government may have given in-principle support to the bill; indeed, it is similar to legislation being enacted in other jurisdictions around Australia for the reasons outlined by the Honourable Kaye Darveniza. But legislation that is deficient in as many areas as this bill appears to be would not have passed inspection by a scrutiny of acts and regulations committee, the former Kennett government's policy and bills committees or the party room. Members of the former government would have been asking the questions that we are asking in opposition today, ensuring that the bill did what it was prescribed to do with no adverse consequences.

The government has failed to consult with the professional bodies covered by the acts outlined in clause 3 of the bill. The opposition wrote to the Chiropractors Association of Australia (Victoria) Ltd; the Chiropractors Registration Board of Victoria; the Australian Dental Association, Victorian Branch; the Dental Board of Victoria; the Australian Medical Association, Victoria; the Medical Practitioners Board; the Nurses Board of Victoria; the Australian Nursing Federation of Victoria; the Optometrists Association of Australia (Victorian Division); the Optometrists Registration Board of Victoria; the Osteopaths Registration Board of Victoria; the Pharmacy Guild of Australia, Victorian Division; the Pharmacy Board of Victoria; the Physiotherapists Registration Board of Victoria; the Podiatrists Registration Board; the Psychologists Registration Board of Victoria; the Victorian Psychologists Association; the Pharmaceutical Society of Australia, Victoria; and the Australian Physiotherapy Association. At least the opposition had the decency to seek their opinions, given that they will be primarily affected by the operation of the bill.

Many of the replies received to the opposition's invitation to comment on the bill have raised serious concerns about how the bill will work in practice. For example, the Pharmaceutical Society of Australia asks:

> How do pharmacists become aware of the ministerial order, who in fact is exempted or who is a visitor?

I shall focus on the sections of the bill that deal with those questions today. The society also asks:

> How accessible will the information be, for example, to an after-hours pharmacist working late at night when the departmental offices are closed?

That question has not been addressed in the bill nor in anything I have heard or read of the debate in the other place. Another important question, which I shall detail further during the debate, has been raised by the Pharmacy Guild of Australia. It asks:

> What protection is provided to the local health professional who, with the best intent and professional practice, breaks the law or causes injury or death?
>
> How does the Victorian pharmacist know the bona fides of the patient or medical practitioner they are trying to assist and are all pharmacies likely to be involved, or would the access be on a limited basis?

The Australian Dental Association also expresses concern. The Australian Medical Association raises a number of issues relating to almost every clause of the bill. The bill is broad, imprecise and ambiguous in parts.

The opposition has no trouble with the broad thrust of the bill, but standards exist in Victoria — standards of care for patients; standards to protect Victorian institutions such as hospitals and health care facilities; and standards to protect boards of professional medical associations. The opposition wants to ensure that appropriate care is given to all patients in Victoria, regardless of whether they are visiting our shores or are residents.

Victoria has strict registration requirements for professional medical practitioners, and the bill proposes to circumvent those standards. Although visiting health practitioners may be contracted by overseas teams and may provide treatment only for visitors to Victoria from overseas, their qualifications and their standards may be much lower than the standards we would expect in

Victoria and Australia. In addition, the treatment that can be offered by professional health practitioners in Australia is vastly different from that offered by equivalently named practitioners in other countries. In the United States of America chiropractors have the right to prescribe drugs, but Australian and Victorian chiropractors do not have that right or opportunity. Also in the United States optometrists can carry out surgery. Optometrists in Victoria are precluded from carrying out any invasive procedures at all.

In clause 5 of the bill, which outlines the meaning of 'visitor', paragraph (a) is relatively clear. It states a person is a visitor if:

> the person is a resident of another country who is in the State for the purpose of —
>
> (i) officially participating in a special event; or
>
> (ii) preparing, training, practising, rehearsing or acclimatising for a special event;

However, paragraph (b) is unclear. It states that a resident of Australia is defined as a visitor if he or she forms part of an overseas team competing in an event in Victoria. It provides that a person is a visitor if:

> the person is a resident of Australia who —
>
> (i) is in the State for a purpose referred to in paragraph (a); and
>
> (ii) is a member of a group, the majority of the members of which is comprised of persons referred to in paragraph (a) who are in the State for the same purpose.

My problem with that provision is that it is ludicrous to call an Australian resident a visitor. I accept the reasons for the inclusion of the provision, but the terminology could have been fleshed out more to ensure the provision was clear. When one considers the standards of health considered important by practitioners and Victorians in the provision of medical care to our residents, one realises that an Australian resident who is part of an overseas team will or may receive treatment from a visiting health practitioner who may have nowhere near the standard of qualifications or experience required of an equivalent practitioner in Victoria. Therefore, the standard of care he or she receives in Victoria may be lower than what is expected or deserved.

Clauses 6 to 8 deal with the special events orders which are to be published in the *Victoria Government Gazette*. One query that has not been answered is what happens if the event is to take place in only one state, yet rehearsals or acclimatisation activities occur in another state? If the event is not Australia-wide and, therefore, the participants and visiting health practitioners are not under the umbrella of equivalent legislation in another jurisdiction, does the act exempt the visiting health practitioners from providing medical services to a visitor? For example, if the event is to be held in New South Wales no special events order would have been published in the *Government Gazette*, yet the visitor may have come to Victoria as part of his or her training.

Clauses 10 to 14 relate to the prescription rights for schedules 4 and 8 poisons under the Drugs, Poisons and Controlled Substances Act. Schedules 4 and 8 drugs include narcotics, anabolic steroids and the drugs that mask anabolic steroids. Controversy surrounds the prescription of those drugs to sporting professionals, particularly in the lead-up to the 2000 Sydney Olympic Games and other events. The controversy concerns allegations — proven, in many cases — of professional sporting teams or individuals being prescribed drugs to enhance performance. To maintain Australia's overseas reputation and credibility as a sporting nation we must ensure there is no hint of controversy surrounding any sporting or cultural event to be held in Victoria.

I am concerned that a visiting health professional can prescribe and obtain drugs, including anabolic steroid-masking drugs, from Victorian pharmacies to enhance an athlete's performance or endurance in an event held in Victoria. As I asked earlier, who will notify pharmacies of the exemption for a visiting health practitioner who prescribes the drugs for visiting contestants? Given that the visiting health practitioner is exempt from the requirements of the Victorian and Australian acts, how will a pharmacist know whether that person is bona fide and is authorised to purchase prescribed drugs on behalf of a visitor?

Moreover, who will clarify who is defined as a visitor? We have such a multicultural community in Victoria that one visiting health practitioner could prescribe drugs, including narcotics, to a Victorian or Australian resident from an ethnic background. It would be difficult for a pharmacist to ascertain whether that person was a visitor and, therefore, exempt from the provisions of the Health Act or whether the person was an Australian resident and liable to prosecution because a drug was to be supplied to a non-visitor. More checks and balances should be included in the bill to protect Australians and overseas visitors.

The activities of visiting health professionals must be monitored to ensure they do not treat non-visitors. Also, we must bear in mind that under clause 5 an anomaly exists whereby Australian residents may be described as visitors.

The legislation is silent on the interaction between visiting health professionals and Victorian health professionals during their stay in our state. If a visitor were to be admitted to hospital, who would be ultimately responsible for his or her care? If something goes wrong, who is liable for any claim of negligence? For example, if a visitor is admitted to a Victorian hospital or medical institution as a result of negligence from a visiting health professional, who will become liable for any action a visitor or health professional may take against an institution in Victoria?

Professional sportspeople spend a good deal of time training to attain their optimum performance capacity. The sports in which they compete are generally their livelihood. If there were any opportunities for a person to take legal action against a Victorian institution or health professional without indemnity cover, that would put at risk the exemption of visiting international health professionals from meeting the same registration requirements that Victorian health professionals must meet.

This may have been solved by including a section 85 statement in the bill to indemnify not only Victorian medical and registration boards but also our institutions. All the acts listed in clause 3 include section 85 provisions that indemnify boards from action. For example, if information about a health professional who may be deregistered in Victoria is transferred to an equivalent board in New South Wales, the board is not liable for any action taken.

I wonder whether a section 85 statement has not been included here because the government is trying to avoid having the requirements for an absolute majority tested in both houses. I would hate to think that the government was avoiding section 85 provisions because of its minority position and its need to have the support of the Independents for legislation. I would hate to think that political problems may render the bill and subsequent legislation ineffective because boards are not protected from ultimate liability. The bill does not go far enough in articulating the protection afforded for Victorians practising in the medical area.

Clause 12 relates to the prescribing of certain poisons. It states:

> … a visiting health practitioner may only prescribe, write a prescription for or supply a Schedule 4 poison or a Schedule 8 poison if authorised to do so by a special event Order.

That clause was brought to the opposition's attention by the pharmacy guild and the pharmacy board but it still has not been clarified by the government.

Clause 13 headed 'Visiting health practitioner exempt from certain offences' also needs clarification relating to the liability of Victorian practitioners and Victorian institutions for a visiting overseas practitioner who may have contributed to the deterioration of the health of a visitor.

Clause 14 headed 'Visitor exempt from certain drug offences' states:

> A visitor does not commit an offence under the Drugs, Poisons and Controlled Substances Act 1981 or any regulations under that Act for possessing or using any Schedule 2 poison, Schedule 3 poison, Schedule 4 poison or Schedule 8 poison …

A visitor is exempt from our laws relating to anabolic steroids that may be prescribed by a visiting medical practitioner. It is up to the sporting body to ensure performance enhancing drugs are not taken by athletes competing in Victoria.

Clause 15 deals with wholesale suppliers being exempt from certain drug offences. I query the intent of the clause. What happens to drugs which are purchased in Australia and which are left over or still in the possession of a visiting health practitioner? Can those drugs be taken overseas? Why should visiting health practitioners be allowed to bypass customs when the black market for drugs in many countries is of real concern?

Clause 18 is a waste of a paragraph because it does not add anything to the bill. It reads:

> This Act does not prejudice or affect the lawful occupation, trade or business of any person who is registered under a health registration Act.

That does not relate to any other aspect of the bill. It is clearly a contradiction of parts of the bill that have been debated today.

Clause 19 provides that the Governor in Council may make regulations relating to a special event or sporting activity. I hope by the time the legislation receives royal assent a subordinate legislation committee has been established by the government, as required by the Subordinate Legislation Act 1994, to ensure that the provisions of the regulations are checked against the terms of reference of the subordinate legislation committee to ensure they are in keeping with the priorities of the bill, but also to ensure some of the concerns the opposition has with provisions of the bill are picked up.

In conclusion, the bill has been hastily drafted and is vague and sloppy. However, the opposition does not oppose it. Opposition members hope there are no

adverse consequences resulting from the haste in which the bill was drafted, and look forward to the passage of the bill today.

Hon. E. C. CARBINES (Geelong) — I am pleased to speak on the Health Practitioners (Special Events Exemption) Bill. Henny Penny, the sky will fall in if the bill passes! I am surprised opposition members are raising such issues and then claiming support for the bill. It is interesting. The bill deserves their support because it seeks to simplify the process necessary for a visiting health practitioner to provide health care services to a member of a group or team associated with a designated special event in Victoria. The bill is practical, sensible and overdue.

The impetus for the bill is the Olympic Games which Australia will host in Sydney next year. Thousands of health practitioners will travel to Australia with athletes from all nations competing in the Olympic Games. Victoria will host rounds of the Olympic soccer competition and is ready and willing to offer its available training facilities to other visiting Olympic teams and athletes.

Earlier this year — as the opposition well knows because it was in government — the Victorian government signed a memorandum of understanding with the Sydney Organising Committee for the Olympic Games (SOCOG) which outlined the obligations to the International Olympic Committee (IOC). One obligation, of which the opposition must surely be aware, was to ensure that no national law or provision would prevent Olympic medical staff from providing medical treatment to athletes and officials of visiting Olympic teams. New South Wales, Queensland and Western Australia have already passed similar legislation. The Health Practitioners (Special Events Exemption) Bill will bring Victoria into line with other states and allow it to meet its obligations not only to the nation but also to the international community as the host of the Olympic Games.

Although the Olympic Games is the obvious impetus for the bill, every year Victoria hosts special sporting, cultural and other events. Victorians like to call Victoria the sporting and cultural capital of Australia. Under that title, visiting athletes, teams, individuals and groups have been brought to the state many times. The bill will allow visiting health practitioners who accompany those individuals to easily provide them with health care services. The bill will streamline the process so they do not have to become involved in bureaucratic red tape.

The Women's World Bowls Championships will be held in Moama, just across the border from Echuca and about which much discussion has taken place today. The championships will be held in New South Wales but for the duration of their stay many women will reside and practise on bowling greens in Victoria. What happens if they fall or sprain their ankles? Do they have to be rushed across the border to New South Wales before their medical practitioner can assist them? How ludicrous would that be! The bill will ensure that nonsense does not continue. It will allow the Minister for Health to declare a special event in the *Government Gazette* and to specify the exemption period. It is important to stress to opposition members that there will be an exemption period. It will not go on and on for months and months as some honourable members are trying to make out.

Visiting health practitioners will be exempted from the offence provisions in two acts: the Health Registration Act and the Drugs, Poisons and Controlled Substances Act. Visitors who are members of a team or a group visiting Victoria as part of a declared special event will be exempt from offence provisions relating to the possession or use of a drug that has been prescribed for them by a visiting health practitioner. The bill will also exempt pharmacists from offence provisions associated with the dispensing of such drugs under prescription.

The bill makes sense. It is practical and simplifies the provision of health care services by visiting medical staff for visitors to Victoria who are participating in an event designated special by the Minister for Health. I commend the bill to the house.

Hon. J. W. G. ROSS (Higinbotham) — I am pleased to participate in the debate on the Health Practitioners (Special Events Exemption) Bill. I wish to put on the record that the opposition does not oppose the bill. However, in response to what Ms Darveniza and Mrs Carbines said about the opposition supporting the bill, the fact that it has been debated and passed in the other house, where some of its shortcomings have been noted, does not mean it has bipartisan support. Although it is the duty of any responsible opposition to look at the detail of legislation and in the community's interest to advise and warn the government of any potential consequences of its actions, that does not imply bipartisan support. I put on the record that the opposition does not oppose the bill.

I found another aspect a little alarming in the contributions of both Ms Darveniza and Mrs Carbines on the purpose of the bill, which is to allow visiting health practitioners to provide health care services in the state for special events without becoming registered

under state law. I was concerned to hear that events such as world series cricket and women's bowling tournaments were being picked up in the net. My clear understanding is that in accordance with an undertaking to the Sydney Organising Committee for the Olympic Games the legislation is intended to cater for very special events, such as the Olympic and Commonwealth games. I ask the government to what extent it will extend the exemptions. I am alarmed at the prospect of medical and other practitioners being exempted from the provisions of state law for events such as cricket, soccer and bowling. That is not the intention of the legislation.

Another point made by government members was that the process is a routine one of enacting legislation drafted by the previous government. It is the height of arrogance on the part of the government to presume that the former government would have introduced legislation into either house of Parliament without going through an extensive process of consultation and submitting it to the former Scrutiny of Acts and Regulations Committee. It is completely unreasonable to claim the bill has bipartisan support because the government is enacting legislation of the previous government. The previous government would have done things completely differently.

The purpose of the bill is to provide an exemption to visiting health practitioners in two general areas: one relates to the exemption of the provisions of registration authorities; the other relates to access to certain drugs and the ability to possess and sell such drugs. In each case the devil is in the detail. The approach to the registration of health practitioners in this state protects the titles of practitioners. People cannot hold themselves out to be dentists, optometrists or medical practitioners without being authorised to do so by the registration authority. Assiduous attempts have been taken to avoid specifying what each activity implies, so the devil is in the detail.

I also make the point that a number of authorities will be required to cooperate in the application of this legislation, none of which has been approached in a genuine consultative fashion. I refer to practitioners registered under the acts referred to in the bill — namely, the Chiropractors Registration Act, the Dental Technicians Act, the Dentists Act, the Medical Practice Act, the Nurses Act, the Optometrists Registration Act, the Osteopaths Registration Act, the Pharmacists Act and the Physiotherapists Registration Act. None of these practitioners has blanket authority to behave in an unlimited way. They are only able to prescribe drugs in accordance with the lawful practice of their profession and in the exercise of their personal judgment and are always accountable to their peers and the registration authority.

For example, dentists are able to prescribe any drug, but only in the lawful practice of their profession. Therefore practical limits are set on the prescription of, for instance, drugs of addiction by dentists. Optometrists only have access to drugs that may be active on the eye and there is no suggestion that they have a blanket access to the drugs that I will mention later. However, without having consulted the registration authorities the government will expect them to advise the minister in striking his special orders for special events on what limits to place on the practice of their professions and the possession and prescribing of certain substances.

The Drugs, Poisons and Controlled Substances Act is structured around a number of schedules that lend an element of control to the potency and use of substances. The bill's definitions contain references to a schedule 2 poison and a schedule 3 poison. The substances — particularly schedule 3 poisons — are generally considered to be items that can be obtained over the counter at pharmacies, but pharmacists must exercise their professional discretion when dispensing them. Schedule 4 poisons are the ordinary restricted substances that generally require written medical prescriptions, and schedule 8 poisons are drugs of addiction.

An interesting dilemma has arisen. Under state law the pharmacist is the person who has absolute and final accountability for the supply of drugs and for the testing of doses against the British pharmacopoeia. If a visiting medical practitioner exempted under an order issued by the minister wrote a prescription that required a local pharmacist to dispense a substance that was clearly contraindicated for a particular condition, or which had a massive overdose implied in its directions for use, who would be liable?

The legislation has a number of loose ends. It has not been through the proper consultative processes and has not been subject to the discipline of a scrutiny of acts and regulations committee. The opposition advises and warns the government — not in a destructive sense but in the community interest — that given its implications the legislation could be regarded in some senses as rather loose.

My colleagues on this side of the house have gone into the fine detail of the legislation to such an extent that I need not go over the ground again. Suffice it to say that opposition members do not oppose the bill but have some concerns about its process. We will not be branded with having been a part of the process; it is the

government's legislation. Opposition members have done their best to draw to the government's attention the problems with the detail in and implementation of the bill on issues such as visiting medical practitioners who are exempted from the Drugs, Poisons and Controlled Substances Act. Problems may arise with orders made under the hand of the minister in a quasi-legal fashion in Victoria to purchase drugs in wholesale quantities and no consideration has been given to either the balance of unused substances or the obtaining of drugs for malicious intent and the ability to transport them to other states or countries.

To end that brief contribution, I state that the opposition does not oppose the bill.

Motion agreed to.

Read second time.

Third reading

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

That this bill be now read a third time.

I will comment on some matters the Honourable Bill Baxter raised in his contribution to the debate. One question concerned Australian residents being deemed foreigners. I have been advised that could take place only on the basis that the resident was a member of a team, the majority of which was made up of foreigners. It would not apply to someone residing in Australia and being a member of an Australian team.

Hon. W. R. Baxter — I understand that, but in the broad sense that opens the door.

Hon. M. M. GOULD — I wanted to ensure that was clear. Mr Baxter has indicated he understands the situation.

Mr Baxter also raised his concerns about the wide range of drugs that can be prescribed. I am informed that the drugs that can be used by those practitioners must be accredited by the International Olympic Committee (IOC) or the Commonwealth Games organising committee. It is not open slather.

Hon. W. R. Baxter — What checks and balances are on the committees in nominating those drugs?

Hon. M. M. GOULD — Mr Baxter would be aware the International Olympic Committee is very concerned about the misuse of drugs. I am advised that those drugs can be administered only if they have been preaccredited by the IOC or, in the case of the Commonwealth Games, the organising committee.

Regarding whether practitioners may sell or distribute drugs outside the parameters of the order, I point out that practitioners would be subject to the usual sanctions that apply to anyone breaching a Victorian law. Like everyone else, those practitioners could be convicted under criminal offences legislation including the Drugs, Poisons and Controlled Substances Act.

Concern has been raised regarding provisions affecting pharmacists. It is anticipated that specified pharmacists and wholesalers will be identified as being in control of the dispensing of drugs to foreign practitioners. Not any pharmacist but specific pharmacists will be involved.

Hon. W. R. Baxter — Will we have one in Wodonga, because the Croatian team is training there?

Hon. M. M. GOULD — That is more than likely. I am not in a position to say that will be the case. I anticipate there would be specific pharmacists if that is where the team is located.

Customs laws regarding visitors leaving the country with drugs are not affected. The provisions of commonwealth laws will apply regarding inappropriate drugs being smuggled out or leaving the country by other means.

I thank the Honourables Bill Baxter, Maree Luckins and John Ross for their contributions, and in particular I thank the Honourables Kaye Darveniza and Elaine Carbines.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

ADJOURNMENT

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

That the house do now adjourn.

Small business and consumer affairs: departmental briefing

Hon. BILL FORWOOD (Templestowe) — I address my concern to the attention of the Minister for Small Business and Minister for Consumer Affairs. On 11 November I wrote to the minister in my capacity as

shadow minister for small business and consumer affairs, seeking a briefing from her department. Could I possibly have that briefing?

Trucks: transport regulations

Hon. B. W. BISHOP (North Western) — I direct a matter to the attention of the Minister for Energy and Resources, representing the Minister for Transport in another place. The minister may well be aware that transport regulations are about to come into place regarding the height of trucks carrying containers — generally 40-foot-long containers.

My understanding is that the regulations are to address bridge clearances, particularly around the metropolitan area and the ports. The new regulations will see the height reduced from 4.6 metres to 4.3 metres, which will require substantial investment from transport companies, sometimes to the tune of $200 000 to purchase step-deck, low-profile trailers to suit that type of enterprise. Although that presents some difficulties to transport companies, they are moving that way on loads designated to the metropolitan and port areas where there may be some lower bridges.

In many areas local transporters have been granted exemptions in part to use 4.6-metre trailers where there are no bridges, thereby saving a large capital expense for those working in local areas. I understand that required the gazettal of truck routes, the measuring of loads, and driver training — provisions that were adhered to and not seen as a problem. That provided a sensible and practical solution to transporting loads in areas that did not have any bridge restrictions. Will the minister request that the Minister for Transport ensure those sensible and practical exemptions continue?

Essential services ombudsman

Hon. ANDREA COOTE (Monash) — Last week the Minister for Energy and Resources stated that, in accordance with Labor Party policy documentation, an essential services ombudsman would be established, although she could not guarantee that would be done before Christmas. I add that the existing Energy Industry Ombudsman (Victoria) has just released a comprehensive and objective annual report.

The essential services ombudsman would be given the power to impose tough penalties on suppliers of energy in Victoria in the interests of supply to consumers. Not only is supply in the interests of Victorian consumers; so, too, are maintenance, research and new technology. Can the minister assure the house that the powers she gives the essential services ombudsman, when that position is established, will not be so onerous that distributors will be discouraged from continuing critical research, maintenance and technological development?

Police: Murrumbeena station

Hon. M. T. LUCKINS (Waverley) — I raise a matter with the Minister for Sport and Recreation as the representative of the Minister for Police and Emergency Services in another place. On 3 November, the first day of the sitting of the house, I raised in the adjournment debate speculation about the closure of Murrumbeena police station. I quoted the honourable member for Oakleigh, Ms Ann Barker, who, having promised the station would not close, was reported in local newspapers as stating she was not sure the Murrumbeena station would remain open under a Labor minority government.

There is speculation in the police force that the minority Labor government will not sign the contract for the new 24-hour Caulfield police station. I seek clarification from the Minister for Police and Emergency Services on the future of not only the Murrumbeena police station but also the proposed Caulfield station.

I also put on the record the fact that I am yet to receive a reply to the issue I raised for the attention of the Minister for Police and Emergency Services during the adjournment debate on 3 November.

Retail industry: trading hours

Hon. W. I. SMITH (Silvan) — I refer the Minister for Small Business to the fact that every month for the past two years Victoria has led the nation in retail sales. The Victorian branch of the Australian Retailers Association believes part of the reason for Victoria doing so well in retail sales is the deregulation of trading hours. On Wednesday last week the Honourable Theo Theophanous signalled that he had great concern about and did not support 24-hour trading for Victorian small businesses. Does the minister support the current deregulated trading hours?

Schools: Boronia and Upper Ferntree Gully

Hon. A. P. OLEXANDER (Silvan) — I ask the Minister for Sport and Recreation to refer to the Minister for Education in the other place an issue affecting the Boronia and Upper Ferntree Gully primary schools, which are in my electorate. A couple of months ago the former Minister for Education allocated $1.85 million from the education budget for significant and much needed capital works to provide better facilities for the staff and students at the schools.

Boronia Primary School was to receive $1.2 million for new classrooms, an art and craft room and a library. The Upper Ferntree Gully Primary School was to receive $650 000 to upgrade its classrooms, its art and craft room, and its staff and administration area.

I ask the minister to give the house an assurance that the funding will still be made available to those two schools. I also ask the minister when the funding will be provided.

Casey: leisure centre

Hon. N. B. LUCAS (Eumemmerring) — I refer the Minister for Sport and Recreation — who apparently is the minister not assisting the Minister for Planning! — to the situation facing the Casey aquatic and leisure centre. I have on three previous occasions referred the minister to the Premier's promise to grant $2.5 million to the City of Casey for the project, but I have yet to receive a reply. Under the heading 'Survival of the fittest' an article on page 1 of the Berwick *News* of 25 November refers to a Canberra-based fitness consultant who has launched a competitive neutrality appeal against Casey council, claiming the project:

> … could put surrounding gymnasiums out of business.

John Boland, of Kippax Pool and Fitness Centre, is quoted as saying that:

> … council's proposal does not comply with the principles of competitive neutrality and the Trade Practices Act.

The article states further that Mr Boland maintains that he has pursued cases in all the states and territories of Australia bar the Northern Territory and has not lost one. It further says that:

> … he had already had one win in Melbourne, with an appeal against the Melbourne Sports and Aquatic Centre.

The business manager of the Melbourne Sports and Aquatic Centre has advised me that, although he has not heard of Mr Boland, the matter has been raised with the competitive neutrality complaints unit of the Department of Treasury and Finance, which has taken up the transparency of the costing processes, as well as the issue of whether prices at the centre are fair. I understand that not all the information necessary to achieve a win, as Mr Boland refers to it, has been submitted to the Department of Treasury and Finance.

That points to the potential problem of local councils — it could happen to any of the 78 — being frustrated in their goal of developing major sporting facilities that in some cases will provide opposition for existing sporting and leisure centres.

I ask the minister what action the government intends to take to assist local councils across Victoria to develop such facilities. I also ask the minister what action he will take to facilitate the development of such centres by ensuring that councils do not get involved in unnecessary litigation as a result of noncompliance with government requirements.

Minister assisting the Minister for Workcover: responsibilities

Hon. R. M. HALLAM (Western) — Earlier today I noted the fact that according to the Victorian *Government Gazette* of 20 October the Honourable Monica Gould had been appointed the Minister assisting the Minister for Workcover. I asked the minister which of the specific responsibilities attached to that ministry she accepted, and she effectively said — —

Hon. T. C. Theophanous — You asked the question; you got your answer. It has to be a new matter!

Hon. R. M. HALLAM — Why don't you stop while you are behind? The minister said, in effect, that her responsibilities were restricted to those instances in which her assistance was sought from time to time, to use her words, by the minister in another place. That prompts me to ask whether her assistance has been sought by the Minister for Workcover on any occasion and what that assistance might have been?

In addition, will she explain to the chamber how her relationship with the Minister for Workcover, the Honourable Bob Cameron, is different from her relationship with the Premier, the Minister for Finance, the Minister for Arts and the Minister for Health, whom we are told she represents in this chamber?

Ivanhoe East Primary School

Hon. C. A. FURLETTI (Templestowe) — I ask the Minister for Sport and Recreation to refer the matter I raise to the Minister for Education in another place. In March I was approached by the president of the Ivanhoe East Primary School council, who sought assistance with funding to upgrade the school buildings, which had been left to deteriorate as a result of the $670-million school maintenance black hole that developed over the 10 years of the Cain–Kirner governments. My colleague the Honourable Bill Forwood and I inspected the school and were prompted as a result to make the appropriate representations to Minister Gude on behalf of Ivanhoe East Primary School.

In September I was pleased to announce to the school council president, principal and teachers at Ivanhoe East Primary School that the Kennett government had committed $500 000 towards the long-awaited major upgrade and as immediate funding to complete the school's master plan. Shortly after I made that announcement I was approached by one of the parents, who asked whether the commitment would stand if the Labor member for Ivanhoe were re-elected. I gave an assurance that, irrespective of who the honourable member for Ivanhoe might be, the commitment would stand.

I have been advised that last week a portable classroom was delivered to the school, making a total of 12 relocatable classrooms on the site. The latest relocatable has been placed on a play area — the only place it could be put — thereby reducing the available outdoor space to such an extent that the school cannot hold its outside assembly. The purpose of the $500 000 commitment was to enable the building of permanent school classrooms and additional facilities for the 512 students. The government's latest action seems inconsistent with the promise of an imminent upgrade. I therefore seek the minister's assurance that, notwithstanding the change of government, the government will honour the previous government's commitment to fund the urgently required upgrade within the promised time frame.

Women: rural bursaries

Hon. E. J. POWELL (North Eastern) — I ask the Minister for Small Business to refer the issue I raise to the Minister for Women's Affairs in the other place. In 1997 the former coalition government established a rural women's leadership bursary scheme in recognition of the lack of representation of rural women in leadership positions on boards and committees. The bursaries amount to $2000 each for 20 Victorian women. It has enabled them to undertake training courses, and they can use the money to pay not only for the courses but also for babysitting or travel expenses.

It is vital that rural women become members of boards and committees as well as local, state and federal governments. Many of the women I have spoken to at a number of seminars in country Victoria have told me that they want to be involved but they lack the confidence and skills to do so. It is a vital program for rural Victoria. I seek the minister's assurance that she will not abolish the program but will continue funding it and maybe expand it.

Liquor: icy poles

Hon. J. W. G. ROSS (Higinbotham) — I refer the Minister for Small Business to an answer she gave to a dorothy dixer from the Honourable Jenny Mikakos on 24 November in which she referred to alcoholic icy poles that contain 0.5 per cent alcohol and ask whether that is the same product mentioned in an article in the *Herald Sun* of the same day, which states:

> Controversial alcoholic icy poles will go on sale next week, sparking fresh concerns over their appeal to children …
>
> The world-first icy treats, spiked with rum, bourbon or vodka, contain 6.5 per cent alcohol and will sell for about $3 or $4 each.

If it is the same product, did she get the answer to her own dorothy dixer wrong, and will she correct *Hansard* accordingly?

Restaurants: smoking ban

Hon. B. C. BOARDMAN (Chelsea) — I raise for the attention of the Minister for Small Business another topical issue relating to her portfolio responsibility. I refer to the minister's admission during question time today that in announcing over the weekend the proposal to completely ban smoking in restaurants the Minister for Health had not consulted her, or vice versa.

Given that the Minister for Health has singled out restaurants, that the proposal has potentially serious economic ramifications for restaurants — the overwhelming majority of which are small businesses — and that smoking is a legal and regulated activity that 20 to 25 per cent of restaurant patrons enjoy during their meals, what representations has the minister made to ensure that restaurants will not be economically disadvantaged by the implementation of the proposed policy?

GST: small business

Hon. T. C. THEOPHANOUS (Jika Jika) — I direct to the attention of the Minister for Small Business an article in the *Herald Sun* of 29 November, which states that the federal government will allocate $230 million to assist small businesses with the cost of implementing the goods and services tax and that some small businesses will get more than the $200 that was originally mooted. The government has supported that funding provision, but the opposition recently voted against it. However, the house will welcome the increase in funds to small business.

Hon. M. A. Birrell interjected.

Hon. T. C. THEOPHANOUS — My concern is that the basis of the increase — —

Hon. E. C. Carbines — Mr President, on a point of order, I am most concerned that you are allowing Mr Birrell the opportunity to interject when he is clearly not in his seat.

The PRESIDENT — Order! The honourable member should be a bit careful. I heard no interjection from Mr Birrell. If an interjection addressed across the chamber is aimed at a particular member — as she seems to be implying — it is for that member to raise that matter by way of objection before the Chair. I heard no objection so there is no point of order.

Hon. T. C. THEOPHANOUS — The article in the *Herald Sun* states that:

> Many small business owners control several entities, each of which can apply for a $200 voucher.
>
> For example, one entity may operate the business, another may run a self-managed superannuation fund and a third may operate a trust to hand the business on to a child.

That means that in effect the same small business can double dip and be granted several $200 GST shopping vouchers.

The PRESIDENT — Order! Can Mr Theophanous relate this to state government business?

Hon. T. C. THEOPHANOUS — Although the house — and certainly the government — welcomes the increase in compensation for small business, is the minister aware of the new basis for calculating the compensation to be given to small businesses to cover the cost of implementing the GST, and will she make representation to the federal government to ensure that any compensation is provided equitably?

Rail: Geelong–Melbourne special fare

Hon. I. J. COVER (Geelong) — I raise a matter for the Minister for Small Business, who is also responsible for consumer affairs and — as we learnt earlier today — fair trading. The minister may care to take up the matter with the Minister for Transport, but perhaps she will give her own views on it as the Minister for Small Business.

I refer to a summer special that V/Line is offering Geelong people to entice them to travel to Melbourne. Groups of up to four people are being offered return off-peak travel to Melbourne for a total of $16 each way. Geelong small business people, including retailers and business organisations such as the Geelong Regional Retailers, are concerned that the offer will entice Geelong people to go to Melbourne to shop, resulting in money being taken out of the Geelong small business economy.

Honourable members interjecting.

Hon. I. J. COVER — I think they would like to give me a one-way ticket to the government benches, actually, together with my colleagues on this side of the house!

I might point out that among them is Peter Landers, the president of the Geelong Chamber of Commerce, who was reported in the *Geelong Advertiser* last week as having said:

> There should be some sort of balance, where Melbourne residents are offered the same deal to travel to Geelong.

I am concerned about regional Victoria being given the same opportunities as metropolitan Melbourne. The minister may be able to pass on this matter to the Minister for Transport and urge him as a matter of importance to ensure the deal is offered to Melbourne people to come to Geelong to support its retail sector.

Hon. C. A. Furletti interjected.

Hon. I. J. COVER — Indeed, Geelong regional retailers chairman, Hayden Spurling, also believes the deal is discriminatory. That may well fall into Minister Thomson's small business and consumer affairs role as well.

Honourable members interjecting.

Hon. I. J. COVER — I can go on.

The PRESIDENT — Order! The honourable member has made his point.

Hon. I. J. COVER — It might help teach the government how to give a fulsome contribution in this house! It might also help some honourable members to make late bids for interjection of the year!

Hon. T. C. Theophanous — Is Mark coaching you from back there?

Hon. I. J. COVER — He is not coaching me at all — he is actually working me with a foot pedal.

Hon. G. R. Craige — Can he pedal harder?

Hon. I. J. COVER — Write that one down!

I ask the minister what action she can take to give Geelong small businesses the same opportunities that

Melbourne businesses are being given with this offer. I also request that she ask the Minister for Transport what action he can take.

Responses

Hon. M. M. GOULD (Minister assisting the Minister for Workcover) — Mr Hallam asked about my position as Minister assisting the Minister for Workcover. As I have informed the house on a number of occasions, the onus is on the Minister for Workcover to delegate issues to me as he chooses from time to time. Mr Hallam would be well aware of the duties and roles of ministers in this house representing ministers in the other place on legislation and on the adjournment debate. The Minister for Workcover has called on me on one occasion to assist with discussions he had in establishing a working party.

Hon. C. C. BROAD (Minister for Energy and Resources) — Mr Bishop raised the issue of transport regulations pertaining to height limits, the way they impact on transport companies and, particularly, the movement of freight containers. That is clearly a very important matter for ports. Such matters have been raised by transport companies and a request has been made for an adjustment to height limits.

I am aware of the issue; it has already been raised with me. I have also been involved in discussions about it with the Minister for Transport. I understand from him that a timetable for these regulations and changes to height limits was clearly laid down by the previous government and that this is a matter of industry adjustment. As I have been requested to do so, I am willing to raise with the Minister for Transport the matter of exemptions. However, based on the advice I have received to date, it seems to me that the timetable for the introduction of the changes is clearly set down and I am not aware of any proposals to change it.

Mrs Coote referred to the essential services ombudsman, the establishment of which forms an important part of Labor's election commitment, and the recent report of the Energy Industry Ombudsman (Victoria), Ms Fiona McLeod. I received that report in my office yesterday. I am advised that the report is based on an assessment of the situation over the past 12 months and relates to a total of just over 300 gas cases that were received by the ombudsman over that period. Apparently the analysis of those cases indicates some concern about the trend in gas disconnections compared with electricity disconnections.

I am also advised that based on that small number of cases the information and analysis should be regarded as indicative at this stage. I look forward to a much more comprehensive report from the Office of the Regulator-General, which will be forthcoming shortly. Mrs Coote expressed concern that Labor's commitment to the establishment of the essential services ombudsman would place onerous obligations on the distributors and prevent them carrying out important research and other activities. I have previously advised the house that when the relevant legislation is introduced there will be ample opportunity for consultation and debate, and prior to the bill's introduction there will be a great deal of consultation with the industry. At this stage I do not expect that will be an issue.

Hon. M. R. THOMSON (Minister for Small Business) — Mr Forwood asked about his briefing from my department. He will be contacted shortly to arrange a time when he can conveniently meet with the department.

Hon. Bill Forwood interjected.

Hon. M. R. THOMSON — I will go back and raise it with the department.

Ms Smith asked about retail trading hours and deregulation. I see my role as representing the small retailers. It is not my own personal beliefs that matter here, it is the concerns of small retailers, and it is my job to represent them in this place.

Hon. W. I. Smith — What does that mean?

Hon. M. R. THOMSON — Do you mean my personal view?

Honourable members interjecting.

Hon. R. M. Hallam — You're meant to be a minister of the Crown.

Hon. M. R. THOMSON — And I have a constituency of small business retailers to represent, and that is what I will do.

Mrs Powell asked about the rural women's leadership bursary scheme. I shall raise that matter with the Minister for Women's Affairs.

Dr Ross asked whether the alcohol content of alcoholic icy poles was 0.5 per cent or 6.5 per cent. My department informed me it was 0.5 per cent. I shall go back and check with the department and relay the accurate measure back to the honourable member.

Mr Boardman asked me about the disadvantage to small businesses and restaurants as a result of smoking

bans. I would imagine that any ban on smoking would be uniform and therefore not disadvantage any restaurant.

Mr Theophanous raised the question of the $230 million of assistance relating to GST compliance and the current ability of businesses to double dip and get more out of it. I shall raise the matter with the federal minister with a view to ensuring that the assistance is shared equitably and that the fact is borne in mind that people have already expended moneys on making sure they are GST compliant.

Mr Cover raised the issue of one-way rail tickets between Melbourne and Geelong. I remind him that V/Line is now a private concern and it is not within the government's jurisdiction to determine what V/Line offers. However, it is only fair and reasonable that it should honour its commitments. I shall refer the matter to the Minister for Transport in the other place.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — The Honourable Maree Luckins referred to community speculation about the Murrumbeena and Caulfield police stations. I will direct her concern to the attention of the Minister for Police and Emergency Services in the other place.

I will refer the matter raised by the Honourable Andrew Olexander about the Boronia and Upper Ferntree Gully schools, and funding promised by previous governments, to the Minister for Education in the other place.

The Honourable Neil Lucas directed to my attention the issue of competitive neutrality in relation to the Casey aquatic centre. That area will be of concern to all local and state governments as governments invest money in various forms of infrastructure that are desperately required. I am sure people will raise the issue of competitive neutrality in certain situations. Without speculating on each of those cases, I believe each would need to be reviewed on its merits. That would become an issue for local and state governments. It would be necessary to carry out research through the feasibility studies, and when the studies have taken place the results would be factored into any equations.

The Honourable Carlo Furletti raised a matter about relocatable classrooms at the Ivanhoe East Primary School. I will direct that matter to the attention of the Minister for Education in the other place.

Motion agreed to.

House adjourned 5.42 p.m.

Wednesday, 1 December 1999

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

DEPUTY CLERK AND CLERK OF COMMITTEES

Appointment

The PRESIDENT — As a consequence of the appointment of Mr Wayne Tunnecliffe as Clerk of the Legislative Council, I have appointed Mr Matthew Tricarico as Deputy Clerk and Clerk of Committees with effect from 4 December.

AUDIT (AMENDMENT) BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. M. M. GOULD (Minister for Industrial Relations).

BLF CUSTODIAN

45th report

Hon. M. M. GOULD (Minister for Industrial Relations) presented report for quarter ending 30 November given to Mr President pursuant to section 7A of BLF (De-recognition) Act 1985 by the custodian appointed under section 7(1) of that act.

Laid on table.

PARLIAMENTARY DEPARTMENTS

Annual reports

Hon. B. W. BISHOP (North Western) presented reports for 1998–99 of:

Department of the Legislative Council
Department of the Parliamentary Library
Department of Parliamentary Debates
Department of Parliamentary Services

Laid on table.

PAPERS

Laid on table by Clerk:

Alexandra and District Ambulance Service — Minister for Health's report of 30 November 1999 of receipt of the 1998–99 report.

Ambulance Officers' Training Centre — Minister for Health's report of 30 November 1999 of receipt of the 1998–99 report.

Ambulance Service Victoria — Metropolitan Region — Report, 1998–99.

Dental Health Services Victoria — Report, 1998–99.

Mental Health Review Board — Report, 1998–99.

Nurses Board — Minister for Health's report of 30 November 1999 of receipt of the 1998–99 report.

Osteopaths Registration Board — Minister for Health's report of 30 November 1999 of receipt of the 1998–99 report.

Parliamentary Committees Act 1968 — Minister's response to recommendations in Economic Development Committee's Report upon Effects of Government Funded National Broadcasting on Victoria.

Pharmacy Board — Report, 1998–99.

Physiotherapists Registration Board — Minister for Health's report 30 November 1999 of receipt of the 1998–99 report.

Psychologists Registration Board — Report, 1998.

Prince Henry's Institute of Medical Research — Report, 1998.

Radiation Advisory Committee — Report, year ended 30 September 1999.

Rural Ambulance Victoria — Report, 1998–99.

Statutory Rules under the following Acts of Parliament:

Conservation, Forests and Lands Act 1987 — No. 125.

Subordinate Legislation Act 1994 — No. 124.

Transport Act 1983 — No. 123.

Subordinate Legislation Act 1994 — Ministers' exemption certificates under section 9(6) in respect of Statutory Rules Nos. 123 to 125/1999.

UNIONS: MEMBERSHIP

Hon. M. A. BIRRELL (East Yarra) — I move:

That this house is of the opinion that it is grossly improper to discriminate against Victorians on the basis that they are, or are not, members of a trade union.

To an extent the motion is a statement of principle on which we are seeking an opinion from the house; to a

certain extent it can be regarded as a truism or what in former days might have been referred to as a motherhood statement. The opposition regards the motion as pivotal and seeks the opinion of the chamber on the issue from the point of view that, like most Australians, the opposition has reached a conclusion that discrimination on such grounds is improper. Discrimination on the basis that a person is or is not a member of a trade union is unacceptable. The bottom line is to seek the view of the house on the issue as a principle and to express a clear opinion that such discrimination should be regarded as grossly improper.

The matter has a rich background in law, precedent and practice, having been the subject of campaigns during the 1960s, 1970s, 1980s and more recently. The United Nations Universal Declaration of Human Rights protects freedom of association and the choice of people to join or not join an organisation. Article 20(2) of the Universal Declaration of Human Rights, adopted by the United Nations, states that everyone has the right to freedom of association and no-one may be compelled to belong to an association. Clearly the United Nations declaration is the highest reflection of this principle, but the principle is espoused in many other ways in law and practice.

If someone chooses to join a union a rule or law must make it clear that that is not to be taken into consideration, for example, in laying off that person. Similarly, if someone chooses not to join a union that person should not be discriminated against on the basis of that choice. Further, that rule should apply to any industrial association, whether it be an employer group or some other industrial group.

The principle, though, is in doubt and cannot be regarded as an academic point because currently one political party in this state has as a requirement of its membership that only trade union members shall be employed. The Australian Labor Party policy passed by its governing body requires people who want to become members of the ALP to give the following undertaking:

> If I employ labour, I will only employ trade union members.

That is the requirement if you want to be a member of the Labor Party: you must agree to discriminate against people whom you may employ. That is at best — —

Hon. T. C. Theophanous — They do not have to be members of the Institute of Public Affairs.

Hon. M. A. BIRRELL — That is right. They do not have to be members of the Institute of Public Affairs. If that were the case they would join me in not being members of the institute.

Hon. T. C. Theophanous — You insist on it.

Hon. M. A. BIRRELL — I cannot think of anyone I know who is a member of the Institute of Public Affairs.

Honourable members interjecting.

Hon. M. A. BIRRELL — We could have a survey to find out, but Mr Theophanous is trying to imply that there is some requirement in the Liberal Party to join the organisation. I look forward to his providing evidence.

Honourable members know that there is clear, written evidence that the Australian Labor Party requires unlawful discrimination as part of its membership rules. That requirement, outlined in the ALP membership rules — —

Hon. T. C. Theophanous — Work it out. How many people are here? That's how much the house cares about your motion!

Hon. M. A. BIRRELL — You might look where they are sitting, you goose!

That requirement is in the ALP rules and it is unlawful. It incites people to undertake illegal activities. Worse still, the Labor Party is parading this unlawful action as part of the material it distributes in the lead-up to the Burwood by-election. The how-to-vote material being distributed by the ALP in the Burwood electorate suggests:

> If you want to do more than just vote for the ALP … simply complete this form.

If you simply complete the form, you have to sign and date the undertaking, which states:

> If I employ labour, I will only employ trade union members.

There is not a more blatant example of active discrimination being sought by a political party in Australia. That is not just unethical and immoral — it is illegal. That is one of the reasons for the motion. The opposition seeks to put on the record in this house an expression of opinion as to whether this house and all its members believe there should be discrimination against people on the basis of whether or not they wish to join a trade union.

It is timely, if coincidental, that this issue is being raised because of the appearance of this material as part of the

lead-up to the Burwood by-election. It is timely because in the early days of this minority Labor government we seek to adduce its attitude to the role of trade unions in Victorian society. We do not seek to ascertain whether the government supports them, because we expect it to say yes; we do not seek to ascertain whether government members are part of the labour movement, because they are.

We want to know whether ordinary Victorians are being sent a message by the minority Labor government that if they are not in a union they are second-class citizens. We want to know whether people will be treated equally in Victoria or whether this government wants to make it quite clear to ordinary Victorian citizens that they must join a union or else the government does not want to deal with them. Certainly, in the most blatant piece of active discrimination, it does that for anyone who wants to join its political party.

Hon. T. C. Theophanous — What's your policy?

Hon. M. A. BIRRELL — Our policy is stated in the motion, which I look forward to Mr Theophanous supporting. Our policy is quite clear: we do not believe there should be discrimination against individuals because they choose to join or not to join a trade union.

Hon. T. C. Theophanous — How many unionists do you have on your staff?

Hon. M. A. BIRRELL — I do not have any staff, Mr Theophanous, so it is not an active issue for me. However, I suppose my electorate officer has the right to join or not to join a union. I would not be so intrusive as to ask about the union action of any staff member I had. Unlike Mr Theophanous, I would not regard it as a relevant consideration. I will not take it further, but I have taken a strict view that I am disinterested in the political affiliations of any staff that I have had.

Hon. T. C. Theophanous — Would you employ a member of the Labor Party?

Hon. M. A. BIRRELL — In terms of ministerial staff, I have never required them to be members of the Liberal Party and I would not require them to be members.

Hon. T. C. Theophanous — So, would you employ a member of the Labor Party?

Hon. M. A. BIRRELL — I would not inquire. I would have one requirement, Mr Theophanous.

Hon. R. M. Hallam — Can they do the job?

Hon. M. A. BIRRELL — Their ability to do the job would be the prerequisite, and I would require one thing, an undertaking that they would show loyalty to the team; and if they would commit themselves to the task and met the precondition mentioned by Mr Hallam — whether they can do the job — they would clearly be well considered.

Of course, the issue before the house is not just a political one — it is a legal one. Under the Victorian Equal Opportunity Act 1995, as well as under the federal Workplace Relations Act 1996, the action of actively discriminating against an individual because he or she chooses to join or not to join a trade union is an illegal act. But in its membership clause and the way it is actively promoting that clause in the community, the ALP is promoting active discrimination, an unlawful act; and by asking people to follow the clause it is asking them to promote what is an illegal act. Of course, the breach occurs to this very day. We see it in each publication the Labor Party produces. We see it in its rules, and we see it in the way its members assert themselves.

The opposition seeks today an indication that this will not be the conduct of the government of the day, even if it is the conduct of the ALP, of which the government represents the major part. Let us firstly examine the Equal Opportunity Act of this state, which was passed with all-party support, and which I believe enjoys all-party support to this day. Section 13 provides:

> An employer must not discriminate against a person —
>
> (a) in determining who should be offered employment;

or:

> (c) by refusing or deliberately omitting to offer employment to the person.

That is backed up by section 14, which provides:

> An employer must not discriminate against an employee —
>
> (b) By dismissing the employee or otherwise terminating his or her employment.

Discrimination is prohibited if it involves discrimination for being or not being a member of, or joining or not joining, or refusing to join an industrial organisation of employees.

In other words, it is a breach of the law to engage in such discrimination — full stop. Yet the ALP includes that as part of its membership rules! The ALP has only two options: it must either change the law so that it is no longer a criminal offence to discriminate against someone who is not a union member or its members

must assert that they believe it is legitimate to so discriminate. They cannot obfuscate on this one or dart into other territory. They either agree with the principle outlined in notice of motion 1, the United Nations Declaration of Human Rights and the Equal Opportunity Act — which enjoys all-party support — or they do not.

The Equal Opportunity Act makes it clear that refusing to employ someone who is not or refuses to become a member of a trade union constitutes unlawful discrimination. Section 98 provides that:

> A person must not request, instruct, induce, encourage, authorise or assist another person to contravene —

the act.

The section further strengthens the fact that discrimination is illegal by making it clear that no-one can incite an illegal activity. Members of the ALP cannot on the one hand have a law that provides that it is illegal to discriminate and on the other hand allow people to say, 'Let's break the law'.

Honourable members interjecting.

Hon. M. A. BIRRELL — I ask ALP members to reflect on section 98 of the Equal Opportunity Act which, as I said, provides that people must not:

> … instruct, induce, encourage, authorise or assist — —

Hon. D. G. Hadden interjected.

Hon. M. A. BIRRELL — If the honourable member by her maiden interjection is suggesting that there is a workplace exemption from the act, I look forward to members of the ALP citing it. I look forward to their saying that they are not covered by the act, let alone the principles in it.

Whatever the political persuasion of the government of the day, it has a duty to ensure that any law of the state is enforced. It is a clear-cut principle of the Equal Opportunity Act that people may not discriminate. The principle in the workplace is that one should not even be inquiring about someone's status as a union member. Why is that a relevant consideration in hiring or firing someone?

Honourable members interjecting.

Hon. M. A. BIRRELL — The ALP membership document makes it clear. It states:

> If I employ labour —

as it is put —

> I will only employ trade union members.

Members of the ALP must find out if any of their staff are not trade union members.

Hon. T. C. Theophanous — That's not true.

Hon. M. A. BIRRELL — I'm sorry, I'm wrong — I withdraw it all. Mr Theophanous has made it clear. I should be saying that people of honour who sign their membership forms must do so! Anybody who read the declaration and signed the form would think, 'If I employ labour, I'll employ only trade union members' — because they believe they should be bound by and live up to what they have signed.

The second law is the commonwealth Workplace Relations Act of 1996. Before members of the Labor Party say, 'Hold on — this is not our act', I remind them that the Workplace Relations Act became the law of the land as a result of the direct intervention of Cheryl Kernot — before she was a member of the Labor Party — and the federal Labor Party's support for the bulk of the sections in the act.

Part XA of the Workplace Relations Act provides that in addition to the objects set out in section 3 the objects of that part are:

> (a) to ensure that employers, employees and independent contractors are free to join industrial associations of their choice or not to join industrial associations; and
>
> (b) to ensure that employers, employees and independent contractors are not discriminated against or victimised because they are, or are not, members or officers of industrial associations.

In other words, the Workplace Relations Act also reflects the United Nations declaration, which makes it clear that a person cannot discriminate against someone because he or she is or is not a union member.

Hon. T. C. Theophanous interjected.

Hon. M. A. BIRRELL — Section 298K provides that an employer must not, for a prohibited reason, dismiss an employee or refuse to employ another person. By virtue of section 298L, conduct involving a prohibited reason arises if the employee is not or does not propose to become a member of an industrial association.

Earlier Mr Theophanous interjected that that does not mean people cannot encourage others to join a trade union. That is right, but that has nothing to do with the debate. It also does not mean that one cannot say 'We would like you to join an industrial body such as the Australian Industry Group'. The issue is whether there

is an absolute ban on employing someone who is not a trade union member. It is not a matter of encouraging or discouraging; the ALP policy is a about a veto, and its members are parading the document everywhere.

Honourable members know that that policy is also in breach of the Workplace Relations Act. The act provides that an employer or potential employer acts unlawfully if he or she refuses to employ or dismisses from employment a person who is not a member of a union simply for that reason. In simple terms, members of the ALP are not allowed to do that; and in layman's terms, they should not be able to do that. Members of the ALP should not be able to say to someone, 'You're not a member of a union so I'm not going to interview you', or 'You got in to the interview, but because you're not a member of a union I'm not going to select you', or 'Although you're an employee, I didn't know you weren't a member of a union so I'm going to sack you'. They are the requirements the ALP imposes on its members.

Honourable members interjecting.

Hon. M. A. BIRRELL — Members of the ALP know that that clause in the membership application form, approved by their organisation, is an embarrassment. It creates enormous awkwardness for those working out how to deal with the clause without offending the true believers who put it into the form. Their reaction has been, 'We don't want to take them on. We'll whack it into the form. Perhaps no-one will notice it and the true believers will get away with it'.

I refer to what David Feeney, the ALP state secretary, said when caught out about this.

Hon. R. F. Smith — A fine young man.

Hon. M. A. BIRRELL — He must be a member of the right. What do you think of him, Theo — now?

Honourable members interjecting.

Hon. M. A. BIRRELL — Presumably you opposed his appointment but now you support him in his role.

Hon. T. C. Theophanous — All I can say is that our state secretaries have done a better job than yours!

Hon. M. A. BIRRELL — We are still trying to find a state secretary whose appointment Mr Theophanous supported.

When caught out as a result of the actions of the Honourable David Davis, David Feeney, the ALP state secretary, said that perhaps the pledge requirement in the membership document needed to be reviewed. I tip off ALP members about that, in case they are not aware of it and intend defending the document vigorously without checking with him what he actually thinks. David Feeney is quoted at page 30 of the *Sunday Herald Sun* of 16 May as saying:

> It's obviously a very old rule and a reflection of the very special relationship between the ALP and the trade union movement …

It is almost secret men's business!

Hon. T. C. Theophanous — It's almost like you and the Melbourne Club!

Hon. M. A. BIRRELL — I take up the interjection that it is almost like the opposition and the Melbourne Club.

I do not know whether Mr Theophanous has taken up or sought to take up membership of the Melbourne Club.

Hon. T. C. Theophanous — I have never set foot in the place. Its members will not let me in the door.

Hon. M. A. BIRRELL — That adds one more to a long list! The bottom line of the minority Labor government's recent comments about the Melbourne Club is whether the membership rules of a private club are discriminatory. That is hard to believe when, as part of its membership rules, official ALP policy is to be discriminatory.

Hon. T. C. Theophanous — Does your side support discrimination against women?

Hon. M. A. BIRRELL — No, it never has. The opposition proudly supports the Equal Opportunity Act, of which the Labor Party is in breach.

Mr Feeney continued:

> 'But it has been raised that the rule serves as a disincentive for the party in attracting support from the business community'.
>
> Mr Feeney said the clause would survive 'as a statement or principle and preference', but the words might be changed.

Now is the time for the words to be changed. Now is the time for the review Mr Feeney promised in May 1999. Now is the time for the Labor Party to focus on fixing its awkwardness and uneasiness about the clause in the name of ending discrimination.

The opposition knows the Labor Party is in breach of both the principles and practice of the state Equal Opportunity Act and the commonwealth Workplace Relations Act. It also knows the Labor Party is in

breach of the lofty principles outlined in the United Nations Declaration of Human Rights that protect freedom of association. The opposition knows this is a test of where the minority Labor government stands on compulsory unionism, closed shops and compelling people to have a relationship with a union that they may not wish to have.

Many associated issues arose in the earliest days of the minority Labor government. Perhaps its first action was to say that gone were the days of individual workplace agreements and that collective agreements would apply because they force people to deal with a union. Public statements were made that unions would receive prior notice of government changes before citizens, community groups or media because it is legitimate to negotiate with the unions.

That amounts to a clear pattern of special status and unique privileges for the union movement. Linking that with the ALP membership clause requiring compulsory unionism, one can understand the opposition's concerns.

Hon. T. C. Theophanous — It is treating the unions equally.

Hon. M. A. BIRRELL — Mr Theophanous says it is treating people with dignity.

Hon. T. C. Theophanous — Treating the unions equally.

Hon. M. A. BIRRELL — I am sorry, that is even worse! It is not treating the unions equally, because the Premier made it clear that they will be given prior notice of any changes. Unions are not equal; they are more important. Unions should not be more important than individual citizens or other organisations. However, whether it involves ministers ringing up and supporting Trades Hall strike action, the government announcing it will have only collective union agreements or the ALP saying it is right to discriminate against people on the basis of whether they are union members, it is a clear aim of the minority Labor government to have a closed shop dominated by the unions and to compel people to join unions.

The rich background to this is the decline in Victorian trade union membership. The roots of the ALP membership clause lie in the Labor Party's working out that the only way it will force its membership up is to compel people to join a union — or at the very least, force ALP members to become members of the trade union movement.

That is exactly what David Feeney gave away in his comments. I repeat what he said:

> It's obviously a very old rule and a reflection of the very special relationship between the ALP and trade union movement.

Of course it is. These days political parties cannot pass rules that are in breach of the law, and a government cannot have those rules reflect the way it governs if it wants to govern for all the people.

Hon. M. M. Gould — You can in the Melbourne Club.

Hon. M. A. BIRRELL — If the honourable member thinks the Melbourne Club is in breach of the Equal Opportunity Act, which has all-party support, I suggest she take action.

There is no doubt the membership rule is explicitly in breach of the way labour may be employed. As I said, this has as its rich background what has happened to trade union membership. There has been a massive reduction in trade union membership in Australia, but most significantly in Victoria. Australian Bureau of Statistics figures show that trade union membership has fallen from 40.8 per cent in 1990 to 27.6 per cent in August 1998. Only 27.6 per cent of working Victorians remain in the trade union movement. Victorians voted with their feet and left the unions when it was not compulsory — —

Hon. T. C. Theophanous interjected.

Hon. M. A. BIRRELL — There is no doubt that the only hope for the trade union movement is compulsory unionism. People are choosing to leave trade unions rather than join them. As a result, the broader Labor movement wants some kind of safeguard put in place to force people to join up. Nationwide union membership has fallen from 40.5 per cent in August 1990 to 28.1 per cent in August 1998.

In simple terms it means that of over 3½ million Victorians only 515 000 have chosen to join a union. Most significantly, that is a decline in numbers every year.

There is a clear bottom line to this: does the minority government believe it is grossly improper to discriminate against Victorians on the basis that they are or are not members of a trade union? Does it believe it should be regarded as discriminatory to say to someone, 'If you join a trade union, I won't employ you'? Does it believe it should be regarded as discriminatory to say to someone 'If you won't join a trade union, I won't employ you'? Both should be and

are illegal acts under the Equal Opportunity Act and the Workplace Relations Act. But forgetting the law, in the late 1990s, on the verge of the new millennium, both should be morally unacceptable. They should be unacceptable in principle. Honourable members should have no difficulty agreeing with the International Declaration of Human Rights on this point.

It is different from the issue of whether unions should be encouraged. I would expect there to be a political divide on that issue. It is also different from the issue of whether it is right or wrong to join a union. What is at stake here is not whether it is desirable or right, but whether it is illegal or whether people will be compelled to join.

I cannot believe this house would refuse to agree to parts of or would act to defeat a motion that stood up for the principle contained in the motion. The motion has been worded to make clear where the government stands. I would have expected it to be a motion that any political party since the early 1980s could easily move in this chamber because it is even handed. It talks about discrimination, on the one hand of a person being forced to join a union and on the other hand of a person being forced not to be a member of a union. All honourable members heard of examples of each.

A statement of principle is needed on which the house can vote. The principle reflects a contemporary debate about an awkward and perhaps in the hearts of many Labor Party members unwelcome element of their membership requirement rules. It is also happening in a contemporary context in relation to the forthcoming by-election. Voters are having material from all the political parties thrust into their hands, and one piece of that material condones and encourages an illegal act — an active case of discrimination.

Members of this house should stand up for the principle contained in the motion regardless of their views on unions and unionism — not being in unions or joining them. Honourable members should have no doubt that it is illegal to discriminate in respect of the personal decision of an individual to join or not to join a union.

Hon. M. M. GOULD (Minister for Industrial Relations) — The motion moved by the Leader of the Opposition is interesting. I agree it is grossly improper to discriminate against Victorians on the basis that they are or are not members of trade unions. When the Leader of the Opposition was in government he acted on policies of the then government that directly discriminated against non-union members. Non-union workers in Victoria are covered under schedule 1A of the commonwealth Workplace Relations Act. Under the powers that the former government referred to the commonwealth, 600 000 to 800 000 workers are discriminated against vis-a-vis other Australian workers because they are not members of unions.

Workers who are not members of unions are ineligible to become respondents to federal awards that provide workers with 20 minimum conditions. The 600 000 to 800 000 Victorian workers covered under schedule 1A are discriminated against because they are not in unions. They are protected by only five minimum conditions. They get entitled to four weeks of annual leave, termination entitlements, five days of sick leave and a minimum wage. They are not entitled to overtime.

Honourable members interjecting.

Hon. M. M. GOULD — Does it provide an opportunity for them to receive overtime or penalty rates if they work on public holidays? Workers who are not members of unions cannot be respondents to federal awards that allow for 20 minimum conditions. When the Leader of the Opposition was in government he overlooked equality because he was party to the referral to the commonwealth of the state's industrial relations powers, and the federal Workplace Relations Act restricts the entitlements of non-union members. That action was discriminatory to non-union members because workers can come under federal awards only if they are members of trade unions.

Honourable members interjecting.

Hon. M. M. GOULD — The previous government also had a policy of implementing individual contracts in the Victorian public service. Discrimination occurred in that case because workers had to sign individual contracts if they wanted to get pay rises or promotions. Unions argued against that policy.

Individual contracts were not really individual; they were all the same. It was an ideological policy of the then government to oppose the rights of workers to bargain collectively.

Honourable members interjecting.

Hon. M. M. GOULD — That is what the previous government promoted — it did not want unions on site; it supported negotiations only with people working under enterprise agreements or individual contracts that excluded unions. From the opposition's point of view 'unions' is a dirty word. The former government discriminated against Victorian workers who are now not eligible to receive the entitlements of other Australian workers.

The Leader of the Opposition, the Honourable Mark Birrell, who was formerly Leader of the Government in this house, supported the Patrick stevedores dispute instigated by the federal government for the sole purpose of discriminating against union members. He did not want union labour — —

Honourable members interjecting.

Hon. M. M. GOULD — When in government, the Leader of the Opposition in this house supported his federal colleague Peter Reith and the federal government through the Patrick stevedores dispute in discriminating against trade unionists by terminating the employment of dock workers — not because they were not good workers but because they were members of a union.

When the coalition was in government it discriminated against the 600 000 to 800 000 workers in Victoria who do not have access to the wages and conditions that other Victorian and Australian workers are entitled to under the Workplace Relations Act. They are discriminated against: rather than the minimum allowable 20 clauses in their contracts they have only five.

The International Labour Organisation (ILO) introduced conventions of law to protect workers, so they were entitled to join unions because employers were arguing against them. I shall give the house an example of why the International Labour Organisation had to introduce laws that allow workers to — —

Honourable members interjecting.

Hon. M. M. GOULD — The opposition may be interested to know that 100 years ago the first Labor cabinet in Australia was formed following a Queensland strike. Ross McMullin, the author of *The Light on the Hill: The Australian Labor Party 1891–1991*, described the way conservatives treated trade unionists who took industrial action:

> Labor's emergence as a political force in Queensland had its genesis in the momentous shearers' strike of 1891 and the authorities' ruthless repression of the strike. Many strikers were dragged around in chains, subjected to a farcical trial, and jailed.

That is an example of the sort of treatment trade unionists received 100 years ago and the sort of treatment Victorian workers received several years ago when Patrick stevedores terminated their employment. The former coalition, then in government, supported that discriminatory action by the Patrick company.

There has been considerable debate about whether the 20 allowable matters resulting from the first wave of action under the federal workplace relations legislation is legal. The legislation gave the Industrial Relations Commission the right to decide fair working terms and conditions for Australian workers. The Construction, Forestry, Mining and Energy Union has taken the issue to the High Court and argued that the federal Minister for Employment, Workplace Relations and Small Business, Mr Reith, should not be allowed to discriminate against Australian workers by reducing the commission's powers to set terms and working conditions for workers. I hope the judgment of the High Court, which has been reserved, will be handed down shortly.

The present opposition, when in government, supported the Reith workplace relations legislation that discriminated against Victorian workers, regardless of whether they belonged to a union, by providing only 20 allowable matters and trying to remove the remainder of their working conditions.

Hon. M. A. Birrell interjected.

Hon. M. M. GOULD — This is about discrimination. The ALP is proud to support the principle of people having the right to be represented. Hear that? Labor is pleased to support the fact that workers have the right to be represented.

Hon. M. A. Birrell — Will you support the motion?

Hon. M. M. GOULD — Yes, I said that in the first minute of my contribution. I repeat: when in government the opposition discriminated against people regardless of whether they were members of a union. The ALP also supports the right of employees to be represented by their respective unions or nominated representatives. I remind the opposition that under the workplace relations legislation the government — the employer of Victorian public servants — recognises that there are more — —

Honourable members interjecting.

Hon. M. M. GOULD — Queen's Counsel, facilitators and appropriate advocates are also registered under the legislation, so that not only unions represent Victorian public servants.

Honourable members interjecting.

Hon. M. M. GOULD — It is interesting that the Leader of the Opposition has moved the motion. During his contribution he said the motion could have been moved at some time by either political party, but it

is difficult to believe he moved it when he has been part of a government that opposed the principle behind the motion.

Honourable members interjecting.

Hon. M. M. GOULD — I agree that when the previous government was in office the now Leader of the Opposition was grossly improper and that he discriminated against people.

Honourable members interjecting.

Hon. M. M. GOULD — The Leader of the Opposition said he believes the reasons are improper. I agree because I believe he has been grossly improper about schedule 1A, the previous government's involvement in discriminating against the Maritime Union of Australia and his ideological view that 'union' is a dirty word and should be deleted from the Australian vocabulary. I am sorry, Leader of the Opposition — that will not happen!

Hon. D. McL. DAVIS (East Yarra) — I support the motion and reinforce the points made by the Leader of the Opposition. Both sides of the house should support the motion. I make that point against the response of the Minister for Industrial Relations, which missed the point and simply tried — —

Hon. M. A. Birrell interjected.

Hon. D. McL. DAVIS — That's a fair comment. There are a number of reasons why the house should support the motion and why the Australian Labor Party should be willing and able to support it — although it seems to have trouble getting to a position of support.

The first is a clear moral reason. The Leader of the Opposition alluded to that when he talked about international covenants to which Australia is a signatory and in his points about discrimination in general. He spoke about specific classes and the way people should conduct themselves, and said it is the highest level of principle to which we should aspire. In addition to Australia's international obligations there are clear moral reasons why the house should support the motion.

It seems impossible that a modern political party could support anything other than a principle of freedom of association and that a political party could work against the unemployed and people from different backgrounds. People would be outraged if a phrase targeting any other class of persons were inserted into the clause on the ALP membership form referred to earlier. It would be unacceptable if the Australian Labor Party membership form contained a clause that led to discrimination against people on the basis of race or gender, but that is what the clause seeks to do.

I turn to the second reason why the house should strongly support the motion. It is in society's interests that the aim of the motion is supported because it relates to efficiencies in the workplace, to our economy and to obtaining the best dividends for all members of society. I suggest there are good and practical reasons why the house should support the motion.

A third reason is that the provisions that contravene the orders — —

Hon. T. C. Theophanous interjected.

The PRESIDENT — Order! Interjections like that from Mr Theophanous are not relevant to the debate, nor are they relevant to the proceedings of the house. The honourable member knows from our discussions the facts of that case, and I suggest he not pursue it. The issue is not relevant to the motion.

Hon. D. McL. DAVIS — The illegality of discrimination in the ALP clause has been spelt out clearly by the Leader of the Opposition with respect to the Equal Opportunity Act, an act that is supported by both sides of the house. There is no doubt — —

Hon. T. C. Theophanous — What about Kroger's ex-wife?

The PRESIDENT — Order! Mr Theophanous is listed to speak later on the motion and can raise whatever he wants to raise then. The motion before the house is explicit; it is about discrimination against people who are not members of a trade union.

Hon. D. McL. DAVIS — The provisions in the Equal Opportunity Act are clear. Under 'Attributes' it is unlawful to discriminate on the basis of, importantly, political belief or activity. Section 13 is headed 'Discrimination against job applicants', and section 14 mentions employees. It is clear that discrimination is illegal under the act, and that would include discrimination against people because of their political beliefs.

In the Hein case, a case in which the honourable member for Thomastown in the other place, now the Minister for Transport, gave evidence, the Equal Opportunity Commission made it clear that political belief would entail union membership and other aspects of the Equal Opportunity Act. The government cannot wriggle out of the fact that the Equal Opportunity Act, an act it supported, covers the discrimination that is

floated by the ALP clause and by its constitutional rules. I will come to those in due course.

It is also true, as has been alluded to by the Leader of the Opposition and others, that the ALP clause would strongly be against the Workplace Relations Act. I shall refer to a number of opinions to substantiate my claim. Employer groups believe the Workplace Relations Act would be strongly infringed by the discriminatory clause. The Australian Industry Group, one of the largest industry groups, in a letter to me of 12 February states:

> In our view, it would be a breach of the provisions of the Workplace Relations Act 1996 in relation to freedom of association if employers sought to give effect to the preference clause.

The preference clause or pledge is, 'If I employ labour I will only employ trade union members'. Mr Seddon, the executive director at the time, said he was prepared to express the view strongly that he was concerned about any arrangements that may take place with employers that would put them in breach of the Workplace Relations Act. The Victorian Employers Chamber of Commerce and Industry has made clear statements that this is against the Workplace Relations Act and that it does not support such provisions. It believes they are discriminatory and unacceptable in a number of ways. The Business Council of Australia has also said there may well be breaches of the Workplace Relations Act.

I note also that the Employment Advocate has written to the ALP informing it that in his view this may be a breach of the Workplace Relations Act. A considerable number of industry groups have made it clear that any government claiming to be pro-business or business friendly would want to take account of the views of industry associations. It would want to tidy up its membership rules and requirements to ensure it is not in breach of any act of Parliament or any part of federal or state law.

There may also be some electoral implications in the Victorian constitution act. One would imagine there may well be reasons why, in terms of the State Electoral Act and the conduct of elections, that you would not want people handing out how-to-vote cards that infringed the law or incited people to infringe the law in any way. Section 267I of The Constitution Act Amendment Act deals with the submission of how-to-vote cards to returning officers. Under subsection (5) the returning officer may refuse to register how-to-vote cards that contain offensive or obscene material.

A clause or phrase on how-to-vote material that instructs or encourages an illegal act is offensive. It is hard to imagine anything more offensive than encouraging somebody to break a provision of the law in any way on a how-to-vote card. A registration process that may involve vetting of such things would look carefully at whether any part of the how-to-vote material could in any way be seen to encourage an illegal act or illegal activity.

Section 311B of The Constitution Act Amendment Act refers to injunctions and states:

> Where a person has engaged, is engaging or is proposing to engage in any conduct that constituted, constitutes or would constitute a contravention of, or an offence against, this Act or any other law of Victoria in its application to elections, the Supreme Court may …

on application deal with that matter. Material on a how-to-vote card that invites or encourages people to do something illegal or asks them to undertake to do something illegal is offensive on first glance and is worthy of further and more detailed investigation. There may also be some more overriding requirements on the Electoral Commissioner to examine the material related to the registration of how-to-vote cards. It is clearly an affront to the decency of most people that a major party contesting an election would have an illegal clause as part of its material.

I now wish to make some points about the Labor Party and some of its deeper structures. It is important to consider not just the ALP's membership rules, as put out on its forms, but also its constitution. The Victorian ALP constitution under section 5.3.4 states:

> Any person who is not a member of any union at the time of her/his application who is eligible to belong to a union which is affiliated with the party must belong to such a union before he/she can be admitted to membership of the party.

The clause is draconian. It clearly and openly infringes freedom of association provisions and does no credit to the Australian Labor Party. Minister Gould waxed lyrical about the history of the Labor Party.

Hon. Bill Forwood — Is that what it was?

Hon. D. McL. DAVIS — She made comment at least, Mr Forwood.

Hon. M. M. Gould interjected.

Hon. D. McL. DAVIS — You made points about parts of Labor history. I do not think the provision does credit to the Labor Party or to its history. I acknowledge the many sincere people who believe strongly in principles, and that can be respected. Equally the Labor

Party, which is a major political group in the country and which has formed a minority government, has an obligation to not only comply with the laws of the land but also to hold up on issues of principle and morality. That moral position is contained in international treaty obligations that have been referred to and in laws. In 1995 the house decided on a bipartisan basis that Victoria would have an Equal Opportunity Act that laid out certain requirements and provisions. Labor should comply with those requirements.

It is interesting that in Victoria trade unions are often clear about what they expect for their affiliation fees, donations and other links with the Labor Party. The Victorian state secretary of the Electrical Trades Union, Dean Mighell, was quoted in the *Australian* of 23 November 1998 as saying:

> The reason unions affiliated with the ALP was to have the ability to influence political outcomes in the interests of members.

In April this year union powerbroker Greg Sword responded to criticisms about the power of the unions in the ALP. He was quoted in the *Age* as saying:

> People outside the parliamentary caucus having an influence is an issue which is as old as parliamentary caucuses.

He certainly admitted that it applies to the ALP. The Victorian unions dumped John Brumby as Labor's leader because he would not do the bidding of the unions. The result was, according to Martin Kingham of the Construction, Forestry, Mining and Energy Union:

> The CFMEU would have more input into the ALP's policy platform.

There is no doubt about the purposes of the rules in the ALP constitution or of the membership clause. The aim of the provisions is to claw back power, to make the Labor government do things in the community that advantages the unions. The unions want Labor to enact and make effective provisions that will allow people to be herded into unions in the way alluded to earlier by the Leader of the Opposition. No doubt that is part of the membership drives that are currently under way. The unions would not want to see the clauses removed; they would see them as a way of complementing their membership drives.

No doubt there will be carrots as well, but the constitutional provisions are part of the stick side of the equation by which an attempt will be made to force people to join unions when they do not want to join them.

It is interesting to reflect on the significance of Labor's attempts to modernise itself. The Dreyfus report, which looked at some of the issues, was unable to do many of the things it wanted to do and was unable to change the provisions. I understand 60 per cent of ALP votes at state congress are by union affiliates and members. That gives them an enormous ability to control and to make decisions for the Labor Party — that may not be in the interests of the community.

It is important to look at the modernising steps that need to be taken by the Labor Party. In the lead-up to the election Mr Bracks talked about being pro-business — about being friendly towards business, and so forth — yet he has been unable to remove even the simplest of the clauses — the obvious one being the membership clause — which would have been a step in modernisation.

It is interesting to reflect on what occurred in England. Tony Blair, the British Prime Minister, has been able to dilute the influence of the unions on the Labour Party in a constructive way, which has worked to the benefit of both the party and British society. I complement him on that. It is a pity that a leader has not emerged here who could effectively modernise the Labor Party, make it responsive to Australian workplaces and break down some of the rigidities within it and its links that have unfortunate consequences, as reflected in the motion. Discrimination in the workplace engendered by Labor links and rules is unfair, unjust and just not modern.

Hon. T. C. Theophanous interjected.

Hon. D. McL. DAVIS — Mr Theophanous has made a comment by interjection. However, he knows that the economy needs to be modernised and that in modern workplaces there is a need for a close relationship and trust between employers and employees. There is also a need for proper laws to protect workers, and I believe there are such laws in place. However, I do not believe that in any way justifies provisions that are clearly designed to gain leverage in the workplace — ways of compelling employers and employees to behave in certain ways.

It is also interesting to reflect on the differences between the political parties in this place and to consider that the community as a whole is represented by organisations such as the Liberal Party but not by organisations such as the Labor Party. There are no special provisions in Liberal Party constitutions to give advantage to one particular group of individuals, such as special voting rights and special privileges.

A motion passed recently at the Liberal Party's state council dealt directly with the issue. A young and promising lawyer in the party, John Pesutto, moved a strongly supported motion, which stated:

> … this state council believes that political parties should not be permitted to impose restrictions on the freedoms of employers or employees in Australian workplaces as a condition of membership.

Further:

> Job destroying union preference clauses have no place in a modern economy where the focus should be on job creation.

It is important to return to that key factor. The motion before the house is not only about principle but also about practicality. In a modern economy requirements that prevent optimal, fair and reasonable outcomes in workplaces cannot be allowed if society expects to achieve the sorts of social and economic outcomes everyone would like.

I make the strong point that employer bodies, particularly the industry groups, would like to see the Labor Party move on some of these issues. I hold out the challenge to Steve Bracks to demonstrate that he is committed to a modern economy and is prepared to work with business. I feel certain that is the view of most of the business organisations that I have consulted on the issue — and there are dozens of them.

Earlier in the debate some examples were mentioned. An *Age* article of 16 February headed 'Unionist claims ALP harassment' states:

> A former union organiser claims he was passed over for promotion and ultimately sacked because he failed to join the Australian Labor Party.
>
> Mr Mark Francis Foley told the Victorian Civil and Administrative Tribunal yesterday that former superiors and workmates told him that as an employee of the Shop, Distributive and Allied Employees Association, he was expected to become a member of the ALP.

That is the other side of the equation. Leverage is put on employees to join the Labor Party. The ALP's constitutional clause tries to force employees into Labor Party membership. The article continues:

> '[If] you didn't join, you didn't get anywhere', said Mr Foley, who has made a complaint to the tribunal that he was discriminated against on the basis of his political beliefs and activity.

Debate is not in the abstract; there are real examples, and many members would have encountered such examples. I reinforce the point made by the Leader of the Opposition. Discrimination in either respect is unfair and unjust and should be condemned by both sides of the house. The article further quotes Mr Foley as having said:

> … the offer to become a party member went from a polite invitation once a fortnight to a forceful 'hard selling' of the ALP almost every second day.
>
> Mr Foley said the campaign to enlist him continued at his home when a member of the local ALP branch telephoned him after his personal details were released by the union.

Honourable members should not feel comfortable with such practices. They are clearly unjust and discriminatory and openly wrong.

Victoria is not the only state in which such restrictive clauses exist in the ALP constitution. Other state ALP branches have unacceptable clauses, too. Clause 4.1.7 of the Western Australian ALP constitution states:

> Rejection of application — A membership application will be rejected if the applicant is not a member of an affiliated union when eligible to be so.

If a person is not in a union when eligible to be so, the person is out.

The New South Wales ALP constitution states:

> No-one will be allowed to join, or remain a member, unless he/she is a paid-up member of the union covering his/her work, and does not owe any outstanding dues to any other union to which he/she previously belonged.

ALP membership is used as a mechanism for collecting outstanding fees. Any reasonable examination of such provisions would show them to be an outrage.

The constitution of the Victorian chapter of the ALP is in a class of its own, it is so up-front, brazen and bold in its attempt to limit those who can and cannot join the Labor Party. That is what has prompted the motion and its attempt to condemn improper discrimination against Victorians on the basis of union affiliations, either positive or negative. The Victorian ALP charter also begs the question: who is running the ALP?

Earlier quotes make it clear that the links between the union movement and the ALP are strong indeed. Links to the union movement are so strong that questions arise regarding who is pulling ALP strings. In the context of our attempts to build a modern economy, that situation is difficult. As the Leader of the Opposition pointed out before, it is important that early in the Labor government Labor go on the record stating there are certain things it will not tolerate. Much pressure will come to bear on the new Labor minority government to strengthen union-related provisions.

I am reliably informed about, but have not seen, a document dated 18 November and circulated by the Department of Treasury and Finance to a range of statutory authorities. It lays out clearly that before staffing changes occur and before any changes in employment practices or arrangements are made, unions are to be consulted. It is clear the document is a direct instruction from the highest levels of Treasury and Finance to ensure every statutory authority takes the right steps, according to the government. The instruction is clearly union driven. It is the sort of thing the Parliament will see more of, affecting public servants such as teachers and health workers.

There will be greater pressure not only through obvious wage demands — of course public sector workers are entitled to fair and reasonable wage increments as time goes on; that is always a matter for step-wise negotiation — but also from the union movement and ALP affiliates of the government. In this context it is important that there be no opportunity for the Labor minority government to use its power in government to advantage certain classes of employees on the basis of union membership status. No doubt pressure will increase over time. Already some provisions have started to creep into Department of Education arrangements. There is also evidence that the same arrangements are beginning to appear within the health services sector.

Honourable members interjecting.

The DEPUTY PRESIDENT — Order! In deference to Hansard, if any conversation is necessary I ask honourable members to conduct it outside the chamber.

Hon. D. McL. DAVIS — The motion is important because over the next three or four years of minority Labor government it is important that the house, the community and the Independents keep a close watch on Labor minority government actions. My prediction is that the Labor minority government will set out to violate the principle set out in today's motion. It will seek to disadvantage non-union members, to advantage union members and to discriminate on the basis of union membership, as ALP rules require members of the Labor Party to do. Members opposite might say that such provisions are not given effect to. The example I have detailed shows that such policies are given effect to. There is no doubt the constitutional arrangements of the Labor Party across the country will be invoked to the disadvantage of non-union members.

Hon. N. B. Lucas — They haven't got an answer.

Hon. D. McL. DAVIS — That is exactly right. They do not have an answer to the need to modernise the economy and ensure that fair arrangements are in place and the economy is able to move on in a successful and productive way. The focus needs to be primarily on the workplace and on employers and employees working together.

It is also interesting to look at the motion in light of union and Labor Party membership drives, both of which are forthcoming, I understand. The leverage provided by constitutional arrangements is also interesting, as is the leverage provided in New South Wales by the collection arrangements: you cannot join the ALP unless you have paid your union dues. That is an outrage. It is asking the ALP to discriminate on the basis of someone's financial arrangements with an entirely separate body. As I said, it is an outrage.

As the membership drives push forward and as the ALP and unions confront the issues and problems of declining membership, I believe the temptation will be great to put pressure on employers and employees to act in a discriminatory way that interferes with Australia's international treaty obligations and infringes the bipartisan support for the Victorian Equal Opportunity Act.

I challenge the Premier, Mr Bracks, to stand up for the Equal Opportunity Act. The current situation is an outrage when you think about it. A membership clause or similar provision that creates a class of persons, or the basis of political views as spoken about in the Equal Opportunity Act — people of different racial and religious backgrounds, male or female persons and so on — is clearly unfair. That is the test of the morality of those arrangements.

I am very concerned to note as we move forward that the government has already embarked on that path — for example, in the education area it has already kowtowed to the Australian Education Union and decided to abolish self-governing schools. The government did so for several reasons: firstly, the strong union links; and secondly, the money provided by the Australian Education Union. The government has done that in a way that in my view provides advantages for the education union.

The union did not want self-governing schools, an arrangement whereby school communities were able to make local decisions. The union wanted a central arrangement where the powerful unions and the powerful links to the Labor Party could come into play to advantage union members and disadvantage non-union members, but without repealing the act. It

was Labor Party policy before the election — there is no doubt about that — but there is an act in place and this is a matter of democracy and principle, too.

Victorians have witnessed the education union leverage in this way to get the policy outcome that it desired without the repeal of the Education (Self-Governing Schools) Act, which has specific provisions and a penumbra of goodwill and good faith around it as well. This is one early example of what we should expect to see.

Minister Gould's recent decision to abolish Australian workplace agreements in the Victorian public sector is another example of the union movement getting something that it strongly wanted. It is another example of the early strong influence of the union movement in the ALP and an attempt by the union to dictate policy directly to the minority Labor government.

The clauses in the ALP constitution and the discriminatory clause that exists on every ALP membership form, which every person who joins the ALP must sign and is bound by, clearly infringe the principle behind the motion and are examples of steps that we do not want to see taken in a modern economy. There is no doubt that it is in the interests of everyone in the community to have proper, functioning workplaces that are not interfered with unnecessarily and unjustifiably by external influences.

Another reason why the clauses in the ALP constitution and its membership forms should be removed is that they are illegal under the federal Workplace Relations Act. That is clear, and I have not heard any Labor member deny that. There is no doubt they are illegal. It is not as though ALP members were not aware of that fact. I have raised it with them, and the Employment Advocate raised it with them some time ago, so they cannot claim they are not aware that their clauses infringe the Workplace Relations Act and are also illegal under the Equal Opportunity Act.

I know the Victorian Equal Opportunity Act allows for ministerial discretion. I ask the Attorney-General to indicate whether he is committed to the principles in that and whether he is prepared as an individual to stand up to the union movement and the ALP and say, 'I support the principles in the Equal Opportunity Act and I will refer this matter for investigation. I will examine and investigate to see whether this is acceptable under the Equal Opportunity Act'. I have no doubt about the outcome of such an investigation, and I am sure the Attorney-General has no doubt about it either. He has the discretion under the act. I challenge him to step forward and act as a man of principle in that regard.

The electoral implications are also interesting. It seems to me that amendments to The Constitution Act Amendment Act bring into question the how-to-vote material that Labor is distributing to people in Burwood. It clearly encourages people to commit an illegal act. It is offensive and we should ask the ALP to consider its position carefully.

Finally, it is important that the new minority Labor government, as well as all members of this house, support this motion because it represents an early opportunity to demonstrate they are clearly committed to representing the whole community rather than a small sectional interest. That is a significant principle. The minority Labor government should step forward and say it supports the whole community and that it will not play favourites or discriminate simply because of its party's strong links to the unions and the ALP constitution.

The most substantive way that the minority Labor government can demonstrate to the community that it supports not only this motion but also the principles of fairness and justice behind it is to remove the offending clause from the ALP membership forms. The Premier could do that as a simple administrative step. He could waive it tomorrow, or even today, if he chose to do so. The constitutional requirement of the Labor Party would be harder to remove — I acknowledge that — but he should take the matter to the next state conference and say, 'I want to improve the performance of our economy. I believe in justice and principles of equal opportunity, and we should get rid of this clause'. I challenge the Premier to do that. I challenge the Labor Party to step forward and demonstrate its preparedness to act on the principle laid down in this motion.

Hon. G. W. JENNINGS (Melbourne) — I am happy to support the motion before the house. I am an enthusiastic supporter of the spirit and the intent of the words in the motion. There has been some debate across the chamber about the nature of the motion and what it means. I shall represent the government's position on what it considers to be substantial matters regarding discrimination that may apply in the workplace, that may impact on members of unions and those who are not members of unions.

In constructing our understanding of these issues we should try to work through the framework that we seek to apply in testing whether discrimination occurs in the workplace and the recourse available for addressing discrimination if it should occur. The intention of all

members of Parliament, including government members, should be on all occasions to be vigilant and act against discrimination in the workplace.

A number of contributors to the debate have already referred to the United Nations Declaration on Human Rights. The government is more than willing to support the principles outlined in that declaration. Government members will respond enthusiastically to any scrutiny of the equal opportunity or discrimination provisions that are imposed by the law of the land. We are happy to comply with the spirit and intent of and the tests required by such laws. Members of the government are enthusiastic supporters of laws that protect the rights of workers to organise, engage in collective bargaining and create constructive and meaningful workplace environments at the state, national and international levels, consistent with the conventions laid down by the International Labor Organisation.

The government specifically supports the overriding pieces of legislation applying in the Australian workplace environment. They are the federal Workplace Relations Act and the Workplace Relations and Other Legislation Amendment Act No. 2, and the associated Victorian Commonwealth Powers (Industrial Relations) Act that transferred jurisdiction in industrial relations matters to the commonwealth.

The government contends that the implementation of those acts has resulted in discrimination against Victorian workers as a whole when compared with conditions enjoyed by workers in the rest of the country. The substantive issue that must be addressed is that the provisions of the Workplace Relations Act result in two sets of standards applying across the country. They are the limited safety net provisions that apply to workers in Victoria, who have 5 minimum standards or minimum conditions of employment, and the 20 standards or minimum conditions that are available to workers throughout the rest of the country.

As I said, one concern of the incoming government is that, as a result of the industrial relations climate created by the previous government, Victorian workers have been discriminated against because of the inadequate protection provided by the Victorian acts and the federal act. None of us can run away from that significant issue, as much as some of us would like to, by debating other issues. It is the government's intention to address that significant matter.

It is incumbent on all members to implement the spirit and principal objects of the Workplace Relations Act. I remind honourable members that the Liberal Prime Minister, Mr Howard, appeared to flout the spirit and intent of the act in his contribution to the debate on the maritime dispute. During an interview on the *7.30 Report* he said that the reason workers around the country were to be sacked was that they were members of a union. That does not sit comfortably with the spirit or intent of the purposes of the Workplace Relations Act as outlined in section 3, some of which are:

> (c) to enable employers and employees to choose the most appropriate form of agreement for their particular circumstances, whether or not that form is provided by this act …
>
> (f) ensuring freedom of association, including the rights of employees and employers to join an organisation or an association of their choice or not to join an organisation or association.

In his comments about and support of the maritime workers being sacked, the Prime Minister, who was responsible for the federal government's introduction of the act, was in flagrant breach of its purposes.

The legacy for Victorian workers includes the current major problems with the Workplace Relations Act. The government intends to amend the act to ensure that Victorian workers as a whole are no longer discriminated against. The Victorian government maintains it is inadequate that, as I said, Victorian workers have the protection offered by only 5 conditions within the act when workers in the rest of the country have the protection offered by 20 minimum standards of employment. The only provisions that apply to workers in Victoria are those affecting minimum rates of pay, annual leave, sick leave, unpaid maternity leave, and notice of termination.

Other workers throughout the country enjoy significant human rights provisions. For example, they have the opportunity to include paid bereavement leave in their terms and conditions of employment. Would any member of the chamber support a Victorian worker being subjected to the anxiety and trauma that would result if a member of his or her family died and he or she did not have access to paid bereavement leave to attend the funeral? Is that acceptable practice at the end of the millennium? The government says no; it believes that is a fundamental human right. The Victorian government from 1992 to September 1999 should not have abrogated its responsibility to ensure that Victorian workers had the right to paid bereavement leave. No member of Parliament could look a worker in the eye and say it is legitimate to have denied him or her access to such leave.

When compared with the rest of the country the employment conditions of Victorian workers are deficient in a range of other areas. I refer, for example,

to the spread and cumulative number of hours that people can work. In the name of the Victorian economy becoming competitive, the previous government sold down the drain the terms and conditions of employment of workers. That argument is not sustainable in any OECD assessment of growth in an economy vis-a-vis the wages and conditions that apply. Time and again such issues are shown not to be the measure of effective economic growth. Some of the fastest growing and most sustainable economies throughout the world are based on high wages and high growth. There is nothing inherently supportive of the suggestion that the only way Victoria can become and stay competitive in the global economy is by undermining terms and conditions of employment and impinging on the basic civil and human rights of Victorian workers.

Several vagaries exist in an environment of increasing casualisation of the work force. The terms and conditions of employment of casual employees are susceptible to the uncertainty of wage determination, particularly regarding annual leave and other entitlements. The trend in Victoria — indeed, Australia — is for more casual employment. In the current industrial climate no clarity exists to ensure that the terms and conditions under which casual employees work are secure. An additional problem with the current implementation of the commonwealth Workplace Relations Act is that it has no enforcement provisions. The proclamation of the Victorian act occurred so speedily that it is a wonder it passed a scrutiny of acts committee.

An Opposition Member — At least there was one! When will your side activate the committees?

Hon. G. W. JENNINGS — It is a worthwhile endeavour to motivate the scrutiny of acts, which is why I drew attention to it. I am an enthusiastic supporter of the establishment of committees. It is puzzling that the committee did not pick up that in transferring powers from Victoria to the federal jurisdiction and the introduction — —

Honourable members interjecting.

Hon. G. W. JENNINGS — Yes, that is a failing of us all. No enforcement has been applied as to whether those five insignificant items have been addressed, nor is there any sanction on whether they are applied in the workplace. There is no inspection to ensure they are applied. It is a major failing of the then government's responsibility for subsidiary pieces of legislation in referring powers to the commonwealth. As of today the problem is still unresolved.

The current government hopes the federal jurisdiction will adequately address some of those matters. They include some rare items enthusiastically embraced by the government regarding the review of the proposed legislation currently before the commonwealth Parliament.

I turn now to the implementation of the commonwealth Workplace Relations Act. The Victorian government would prefer to have the act amended to ensure there is no ongoing effective discrimination against Victorian workers vis-a-vis the other states and territories. The government enthusiastically supports a comprehensive award system to underpin industrial relations in Australia which is monitored and enforced by an independent tribunal and which reasserts the powers of the Australian Industrial Relations Commission.

The government is opposed to the ongoing implementation and practice of individual contracts that have undermined the basic minimum standards. They operate in secret and quite often may be applied as standard contracts dressed up in a facade of individual contracts designed to drive down the minimum standards applying in the workplace.

Currently several significant industrial cases are before both the Federal Court and the High Court regarding the application of award-stripping practices under the Workplace Relations Act. Those cases will test the legitimacy of the wide-ranging award stripping that has taken place in Australia over the past few years.

Fortunately, Victorian employers who do not wish to be burdened by the requirement to apply the 20 minimum standards of employment will not be subjected to that requirement because schedule 1A of the act outlines only five minimum standards. The implication of the High Court act will not affect Victoria.

Hon. Bill Forwood — What is the motion?

Hon. G. W. JENNINGS — The nature of the motion is whether union or non-union members face discrimination in the workplace.

Honourable members interjecting.

Hon. G. W. JENNINGS — I am happy to reiterate the government's commitment to the motion.

An Opposition Member — Do you support it?

Hon. G. W. JENNINGS — I totally support it. The government defends the motion and enthusiastically supports it within the framework I am outlining to the house of an overlap of a number of significant

elements, including the United Nations Declaration of Human Rights, International Labour Organisation conventions, rulings of antidiscrimination and equal opportunity boards and the implementation of the federal Workplace Relations Act and the two acts that referred power from Victoria to the commonwealth. I am happy for all actions and views of the government to be subject to the test of those laws and conventions.

I am concerned about whether the practical implementation of those various conventions, particularly those that relate to the Workplace Relations Act, has meant that Victorian workers have been discriminated against. I am also concerned about what is the best framework to ensure that no Victorian worker is discriminated against and about how we can best secure appropriate wages and conditions for Victorian workers that are conducive to an ongoing stable economic situation.

The opposition finds the Labor Party's views on union membership very difficult to come to terms with because the government has confidence and a belief in a constructive industrial relations climate — one which is pure and transparent and in which unions will be able to demonstrate they can deliver to members, who will be enthusiastic supporters of trade unions.

A difficulty that has been present for some time is that the implementation of various pieces of industrial legislation, particularly the Workplace Relations Act and the prevailing intimidatory methods used in the implementation of Australian workplace agreements (AWAs) have led to lack of certainty and confidence among many workers who feel compelled to comply with what is secretly on offer in AWAs. That is a significant issue. The implementation of the Equal Opportunity Act involves direct and implied discrimination through the effects of actions of employers, even though those effects may not be intended. They are significant issues concerning the climate and nature of industrial relations in Victoria.

I place on the record that there is substantial documentary evidence that when Labor was not in power — it applies both in Victoria and federally — distinct benefits accrued to workers who joined unions in terms of the outcomes they achieved in their workplaces. An Australian Bureau of Statistics (ABS) survey on weekly earnings of employees in 1998 headed 'The Benefits of Belonging: A Comparison of Union and Non-union Wages and Benefits — No. 4', from its catalogue 6310.0, contains a number of enlightening statistics. The benefit of union membership will be borne out once the true story is told. Workers will enthusiastically embrace union membership on the basis of the findings.

In 1998 research indicates that the average wage of Australian workers was $82 per week higher for union members when compared with non-union members. For female workers the benefit of being a union member compared to a non-union member was of the order of $107 per week. There was a $69 per week benefit for workers who fell into part-time categories who were union members. Union members who were casual workers were on average $50 per week better off than non-union members. There is no doubt that once the truth is out workers will enthusiastically endorse the spirit of joining unions and maintaining their membership. One of the difficulties in industrial relations in Victoria is the spread of misinformation about the nature of those outcomes. During the past decade there was an erosion of union membership, but that trend will be significantly reversed on the basis of the government's commitment to the story being told and to creating a constructive consultative framework that allows enterprise bargaining.

The ABS report also details distinct benefits for workers across a wide range of job classifications. For instance, union tradespersons were $154 per week better off than non-trade union members and the figure for advanced clerical and service workers was $189 per week. Intermediate clerical sales and service workers who are union members are $86 a week better off.

Hon. M. T. Luckins — What has this to do with the motion?

Hon. G. W. JENNINGS — Thank you for listening! The point is the confidence the government has in the proposition that once the truth is out people will enthusiastically embrace the benefits of being union members — —

Honourable members interjecting.

Hon. G. W. JENNINGS — Your side of the house might best get the answer to your argument by thinking through the logical conclusion of my argument; I am presenting the government side of the debate. I am an enthusiastic supporter of the Australian Council of Trade Unions (ACTU), which prepared the document. All members of the house would do well to become familiar with the contents of the document.

I thank members of the opposition for their enthusiasm in entering the debate.

Hon. G. R. Craige — We now know the source of your material!

Hon. G. W. JENNINGS — I am always happy to share it. The document identifies the benefits of being a union member compared to not being a union member: 97 per cent of trade unionists receive superannuation compared to 85 per cent of non-unionists; 88 per cent of trade unionists receive holiday leave compared to 65 per cent of non-unionists; 88 per cent of trade unionists receive sick leave compared to 65 per cent of non-unionists; and 84 per cent of trade unionists receive long service leave compared to only 53 per cent of non-unionists.

In summary, the government has confidence that in a constructive industrial relations climate, neither the government nor members of the Australian Labor Party will impose inappropriate expectations on workers to voluntarily join trade unions or maintain their membership.

The government is confident that the benefits of union membership will be obvious and longstanding. Our commitment is to create a transparent, predictable and stable industrial relations climate which allows for collective bargaining; does not undermine the standing of trade unions; does not treat any employee or any worker in a discriminatory fashion; and enables workers to make realistic and reasonable assessments about the best way to pursue individual claims.

The government supports and seeks to have in place through various pieces of legislation a collective approach to industrial relations — that is a commitment we will maintain along with our commitment to submit any piece of legislation to any antidiscrimination or equal opportunity test and pass it.

Hon. P. A. KATSAMBANIS (Monash) — It is a great honour to support the motion because, as the Leader of the Opposition correctly said, in many ways the motion restates something that should be taken for granted in society, something that could be called a motherhood motion — that is, the fact that it is grossly improper to discriminate against any Victorian on the basis that he or she is not a member of a trade union.

That principle should be self-evident in today's society, but the fact that the house has to debate such a motion demonstrates that unfortunately, because of the actions of the minority Bracks government, the issue of a basic human right, which is a philosophical issue, must be debated in society. The government's actions have proven it does not adhere to the notion of freedom of association and it certainly does not accept any concept that people can choose not to associate. That is what the motion is about today: it is about people's ability to individually choose freely to associate or not to associate, and not suffer any consequent disincentive or penalty.

The motion extends that principle particularly to workplaces and to people's right to choose freely to belong or not belong to a trade union as they see fit, without that choice impacting in any way on their employment status, their ability to hold down jobs or achieve promotions or to aspire to certain salary levels. That is what the government, by its actions and through the contributions of its members in this place, is skilfully trying to avoid, because honourable members know that the Bracks minority government is beholden to its trade union masters.

When promoted to her portfolio one of the first actions of the Minister for Industrial Relations was to get on the telephone to the Trades Hall Council (THC) and offer her full support for a strike the trade union movement was taking on that day, to the detriment of employers and, dare I say, Victorian employees. Honourable members know the government is wholly owned and operated by the THC, which is why the opposition needs to put on the record that it clearly and categorically supports the right of every Victorian to freely associate with any organisation as he or she sees fit.

The opposition equally supports the right, as an individual sees fit, to freely not associate. That right is clearly enshrined in the Universal Declaration of Human Rights. Paragraphs 1 and 2 of article 20 of the declaration state:

1. Everyone has the right to freedom of peaceful assembly and association.

2. No-one shall be compelled to belong to an association.

That is what the motion is about — compulsion: whether you freely accept that people can choose to belong or not to belong. The government comes in here and glibly asserts that people are free to choose, yet it puts barriers in the way when people decide not to associate with a particular trade union.

Examples of the trade union movement's support from the Labor Party are many. Unfortunately, in government today the Labor Party has continued to assert that trade union membership is essential. It is instructive for me to note that in the first few weeks of the new government I received many telephone calls from public servants who were concerned that within the public service the notion of no ticket, no start was to become a reality again under this government. They were concerned because the whisper around the Victorian public service was that it would be in the best

interests of public servants to join a trade union if they were not already members of one.

Hon. G. W. Jennings interjected.

Hon. P. A. KATSAMBANIS — You hear me out as I heard you out, Mr Jennings. The situation in Victoria, as the Leader of the Opposition rightly said, is that the Equal Opportunity Act makes it an offence to discriminate against somebody should he or she become a member of the trade union movement. Furthermore, the federal Workplace Relations Act, with full application in Victoria, makes it an offence to discriminate against somebody on the basis that he or she may or may not be a member of a trade union. Yet members of the Bracks government choose to shrug their shoulders, to ignore the law and instead, by stealth, try to enforce the concept of compulsory unionism, the no ticket, no start idea and the thuggery, fear and intimidation that comes with that idea of no ticket, no start and compulsory unionism.

Hon. G. W. Jennings — Where's the evidence?

Hon. K. M. Smith — Go out to any building site.

Hon. P. A. KATSAMBANIS — It is unfortunate that when you talk to subcontractors and employees, particularly, as Mr Smith says, in the building industry anecdotally and privately they say, 'It's a disgrace that we are forced to join a trade union movement before we can get onto any union-controlled building site in the state'. However, those people also know that their employment is the meal ticket for their families. The unions play on that: they intimidate people into joining trade unions, particularly on Victorian building sites, when the people have no inclination to so join and see no benefit in joining.

When people have a free choice they run away from the trade unions in droves at a million miles an hour! The Leader of the Opposition clearly pointed out that during the 1990s trade union membership has almost halved in Victoria and throughout Australia. Members of the trade union movement constitute a minority — no more than about 25 per cent — of the Australian work force. If the truth be known, if the intimidatory tactics in a small section of Australia were removed — that is, the closed-shop mentality enforced by unions in many workplaces — trade union membership would slump even further than its current low levels.

During the 1990s trade unions have tried nearly every trick in the book to arrest the slump in membership. We have the spectre of the trade union movement, which usually tells everyone its aim is to protect the community's rights, telling people, 'Join a trade union' — not because they will enforce the rights of workers but because they will give them cheap access to the Internet or cheap computers or some other benefit.

Hon. K. M. Smith — Or cheap seats at Colonial Stadium.

Hon. P. A. KATSAMBANIS — Yes, because that is all they have left. The Australian public does not wear the line that the trade union movement aims to protect the rights of workers. Australians understand the movement aims to protect the rights of the trade union movement — its organisers and officials and its totally owned subsidiary within the Labor Party. The union movement is not on about enforcing and protecting workers' rights. It is offering workers incentives to join the movement. They offer bells and whistles! They tell workers, 'If you join a union you will get a free Internet connection or a free hamburger voucher'. People are running away in their droves. The tactic has not worked and it will not work because the trade union movement reinforces everything that is anti-Australian.

The notion of compulsion, of no ticket, no start, and of privilege, will not work. Unfortunately, trade unions have not been selling inclusiveness, rights or freedom — they have been selling privilege. We know what Australians think of privileged segments of our community. The sooner the union movement and members of the Labor Party realise that, the sooner they may be able to start to arrest the slide. I have probably given enough free consultancy to the union movement and the government on how it might arrest the slump in membership.

In the 1990s trade unions have tried all sorts of gimmicks. The notion of super union was promoted by Bill Kelty and his masters in the Australian Council of Trade Unions. Little unions were running around and jumping on each other. The ACTU decided it would stop people from joining those little unions and create large unions that would supposedly be more representative of workers. What did the union movement think about Bill Kelty's plan — remembering Bill Kelty was the ACTU boss at the time? An article in the *Herald Sun* of 17 February 1997 quoted a former state secretary of the Australian Workers Union as saying:

> If someone sat down and thought how shall we damage the union movement, you would have come up with this strategy.

That is the super union strategy. The former state secretary of the AWU was Mr Bob Smith, now an honourable member for Chelsea Province. It was clear

there was gross dissension in the trade union ranks as to how to address its slide in membership.

Hon. R. F. Smith interjected.

Hon. P. A. KATSAMBANIS — Mr Smith confirms today that he stands by his comments that the creation of the Australian Workers Union, of which he was state secretary, was a bad idea. It did not stop him from being secretary of the union. Today he reinforces the view that it was a bad idea. Lots of things in the union movement have been a bad idea. That is why Australians have voted against joining trade unions. Australians have given trade unions a big vote of no confidence because they are unrepresentative and are about reinforcing privileges of the elite few who manage to climb the ranks of the union movement. Honourable members can see from the government benches a demonstration of one of the greatest privileges trade union members can have conferred upon them — that is, membership of this house through Labor Party preselection. It is all about snouts in the trough.

Ordinary Australian workers want to hold down jobs and earn decent incomes for themselves and their families. Over the past two decades Australian workers have crucially and critically realised that the best way to guarantee decent and steady incomes is not to go to war with their bosses, but to work with them to grow enterprises and businesses. Australian workers have realised that driving a wedge between themselves and their employers is simply doing themselves a disservice. They realise they can stand on their own two feet and walk up to their employer or manager and have a chat. They do not need the intimidatory tactics of trade unions and do not need to suspend over their employer the Damocles sword of a picket line, a strike, a black ban or a secondary boycott.

Employers and employees can take away the middle man and sit down and work out what is in their best interests, and that is what they are doing in droves. The Workplace Relations Act enables them to do that, which is why the government does not like it. It means fewer members and less money for the Labor Party. The ALP policy will force people to join trade unions. Trade unions have a big slush fund that they can float out to support the Labor Party and buy people seats in Parliament. That is what trade union membership is about — an increase in the amount of money in the ALP's coffers.

Australians have said they do not want that. They have realised they can achieve good outcomes when they sit down with their employers. That is why after leaving the trade union movement they have stayed out and have not flocked back. I do not see too many people flocking back to the trade union movement, even with the free hamburger and Internet access it is giving away.

Hon. B. C. Boardman interjected.

Hon. P. A. KATSAMBANIS — As Mr Boardman points out — and I have not seen the television advertisements — the ACTU is touting for business: 'Join the union and we will give you a few more hamburger vouchers'. If standards of truth in advertising are enforced, the trade union movement should simply come out and run an ad along the lines of: 'Join the trade union movement because we need more money to fund ALP election campaigns'.

Australians have seen through the trade union movement and its lies and distortions, and realised it is not for them. Seventy-five per cent of Australian employers have said they do not want to know about it.

Hon. B. C. Boardman — A big vote of confidence.

Hon. P. A. KATSAMBANIS — Yes, a big vote of confidence in the trade union movement.

Why are trade unions so much on the nose in Australia? It is because the tactics they use are no longer acceptable in a modern economy. That starts from the no-ticket, no-start mentality. I have already put on record the intimidatory tactics that unions such as the Maritime Union of Australia have over many years implemented on the Australian docks to force people to join the union. If they do not join the union they do not get a job.

An article in the *Herald Sun* of 22 October 1996 highlights an example of union tactics at the Preston-based BOC Gases:

> Up to 100 unionists at Melbourne's largest industrial gas distributor are on strike because two workers refused to become members.

That is an absolute disgrace. The union called them out and said if they did not want to join the union they had no right to work there. Is the union the employer? No. The choice of someone working in a place should be between the employer and employee. That is called freedom of association. I notice Mr Bob Smith, the former union boss, now a member of this house, is sticking up for his union mates. He believes in the no-ticket, no-start mentality. The employer of the two men, BOC Gases, was forced to put the two men off work with full pay to avert a mass walkout that could have spread nationally. As the motion states, and as the

laws of the land and the Universal Declaration of Human Rights allow, two men at a gas plant in Preston decided they would exercise their legal choice and human right, as has been accepted by government speakers in this debate, to freely choose not to join a trade union. What was the result? There was a threat of a national shutdown of an industrial plant. Do government members defend that action?

I want to hear from the minister and members on the other side. Do they defend such action, which is what the motion is about? The motion is about protecting the rights of workers to join or to not join a union without penalty, and workers and their employers not being intimidated because of the choice.

As I pointed out at the start of my contribution, already there is fear in Victoria that the advent of the minority Labor government will result in a return to the no-ticket, no-start mentality in the public service. Public servants have already raised privately with me and with other honourable members their fears that if they do not join unions they will be denied promotion, sidelined and treated as second-class citizens. I will put it another way: a fear exists that certain privileges will be conferred on Victorian public servants who choose to join trade unions that will not be available to other public servants who exercise their free choice and human right to not join trade unions. That is what the motion is about.

I call on government members to indicate today in the house, and later by their actions in government, that they do not believe privileges or rights should be denied to any person in the Victorian public service who chooses to not join a union. The decision of whether to join or not join a union is made by an individual and should have no implication for his or her employment status. I call on the government to guarantee that will occur so that the people of Victoria can be satisfied. If it does not give that guarantee today and does not implement it through its actions, it will be condemned for continuing union hegemony, the agenda of enforcing compulsory unionism and the no-ticket, no-start mentality that is anathema on the Australian ethos.

Both government speakers have raised the issue of the Workplace Relations Act. Yesterday in this place the Leader of the Government, who is the Minister for Industrial Relations, spoke enthusiastically about the second tranche of federal reforms to the Workplace Relations Act not being likely to go ahead at present. I will focus on one segment of the reforms — the secret ballot for all strike action. I want to focus on that because it reflects the fear and intimidation processes exercised by trade union bosses over many years throughout the country to ensure mass adherence to and to deny the democratic right of people to dissent from and disagree with proposed courses of action. It reinforces the undemocratic nature of trade unions.

Trade unions have always resisted any attempt to introduce secret ballots before strike action is taken. Trade union bosses want to exercise the herd mentality of getting members into a room and staring them down until they put their hands up in support of strike action.

Hon. T. C. Theophanous interjected.

Hon. P. A. KATSAMBANIS — Mr Theophanous may scoff, but I have plenty of examples of what has happened to people. I will go through some of them.

In April 1997, in this house, I highlighted the concerns of members of the public transport unions who had been forced to strike over the grand prix weekend of that year. Many honourable members will remember the strike. It was deliberately calculated by the trade unions to inflict maximum damage to Victoria's reputation during the grand prix weekend when the eyes of the whole world were on the state to see how well it coped with organising a major event. Not only did Victorians endure the public transport strike, but they rose to the occasion and Victoria triumphed as a state once more.

At the time many members of the public transport unions came to my office and said, 'We don't want to strike. We know it is frivolous. We know that it is a silly action calculated to damage the international reputation of Victoria, to hurt investment in the state and therefore to threaten people's jobs. We don't want to go about it. But if we march down to the Collingwood Town Hall where the strike meeting is being held and put our point of view we are likely to be threatened. We fear for our safety and for the safety of our families. We are not prepared to threaten our livelihoods, jobs and the safety of ourselves and our families. We will just go quietly'.

Interestingly only 2000 of the 9000-odd members of the transport unions were prepared to roll up to the strike meeting. The others did not want to know about it; they did not want to endure the fear and intimidation they would have been subjected to if they had said they were not in favour of the strike. If I had more time I could raise many more such examples. Everyone knows they occur. Even the former union bosses on the other side do not deny that unions intimidate their members into voting in favour of strikes.

Under secret ballots supervised by independent returning officers the fear and intimidation will disappear. Secret ballots are used to elect members of Parliament to ensure every individual's right to freely choose which way to vote is fully respected. As many honourable members would know, the secret ballot used to be called the Australian ballot. It was introduced in Australia because Australians valued democratic rights and democratic institutions. By refusing to support secret ballots for strike action the government is indicating it wants to continue the undemocratic processes of the trade union movement. As I have pointed out, those processes are the reason people are running away from the movement in droves.

Hon. T. C. Theophanous — What about student unionism?

Hon. P. A. KATSAMBANIS — Mr Theophanous wants to talk about student unionism. The principle of freedom of association applies equally to all unions, whether they be trade unions or student unions. That principle is what the motion is about. I call on government members to not only support the sentiments behind the motion but also to indicate by their actions in government that they fully adhere to the notion that freedom of association is entrenched as a human right, that they respect every person's individual choice to freely associate or not associate with a trade union and that they will not confer any rights and privileges on trade union members that they would not be prepared to confer on all employees in the state.

Hon. J. M. McQUILTEN (Ballarat) — I support the motion, which I believe is a good motion. However, in their contributions honourable members on the other side appear to be making things appear either all black or all white. I have been in business a long time now and I do not think anything is quite that black or white. It is not as simple as the trade union movement being all bad and businesses being all good. I have worked in many premises and many unions over the years and have worked with companies from overseas.

Hon. G. R. Craige — Do you have union labour in the vineyard?

Hon. J. M. McQUILTEN — Some companies prefer to work with large unions. It makes life simpler. I have worked with companies that have had problems and the union movement has come to the aid of the companies. I have worked with companies that wanted to set up at greenfield sites and rationalise the number of unions involved in their operations. In my experience unions have worked closely with companies to achieve the best result for the companies.

Union leadership and the union movement in general are sensitive to the need for companies to make a profit, survive and prosper. When approached, unions always work in the best interests of the company and the workers. Companies and workers are always intertwined, and the union movement is aware of that.

In the past a number of companies have not acted in the best interests of workers. I will not name them. I do not believe it serves any good purpose to discuss companies like that because they are in the minority, but they are out there.

I support what the Australian Labor Party's David Feeney spoke about, as detailed by the Leader of the Opposition. I thank members of the house for their congratulations on my second hole in one last Saturday!

Hon. M. T. LUCKINS (Waverley) — I am pleasantly surprised at the contribution of Mr McQuilten. I am amazed the Labor Party has had the guts to go against the union movement in supporting our motion. The motion deals with a preference clause that forces employers to discriminate against Victorians on the basis of trade union membership. As has been noted in debate today, the Labor Party is currently circulating how-to-vote material in the electorate of Burwood, where a by-election is to be held on 11 December. The back of the how-to-vote material states:

> If I employ labour, I will only employ trade union members.

That is in breach of the Equal Opportunity Act and the workplace relations legislation. Freedom of association is one of the basic tenets of our democratic society. Freedom of association is one aspect of democracy that the trade union movement has fought against tooth and nail for most of this century. Preference clauses such as the one specifying that employers must take on union members fly in the face of the right of Victorians to choose whether to join a union or industry association. Such clauses also fly in the face of Labor's so-called commitment to religious freedom, sexual preference, parental status and gender because they too are contained in the Equal Opportunity Act.

The rate of union membership among Australian workers is now 27.6 per cent, down from 40.8 per cent in 1990. The main reason for the drop in membership is that the union movement has been found by Victorian and Australian workers to be totally irrelevant in the modern world. Unions are not representative of workers, and they are certainly not representative of women.

The preference clause asks Victorian employers to break the law and, regardless of the merit of candidates for the job, to discriminate in favour of union members. Given that 5 per cent more males than females are members of unions, that clause directly discriminates against the employment of women by Labor employers. Even the term 'trade union movement' is archaic when the proportion of workers employed in the service and administrative areas is considered. Women are the majority of workers in those areas, yet the movement is still referred to as the trade union movement.

Women are poorly represented in union membership because they are poorly represented by the union movement. I can provide many examples of that. A letter to the editor of the *Age* published on 14 August headed 'Still so blokey, still so unrepresentative' states:

> The union movement has failed to embrace women as active and participating union members. I still ask why union rallies are so dominated by men and why do so few women attend? … I long for the day when a union rally attracts a more equitable turnout of both male and female workers … I urge both marginalised workers and the union movement to work together to make the movement more relevant, responsive and representative.

Trades Hall Council figures back up my argument. I have a copy of *Gender Representation in Australian Unions, 1998: A report produced by the Centre for Labour Research and the Australian Council of Trade Unions*, which states:

> The great majority of unions — almost 90 per cent — have less than proportional representation of women on their federal executives and councils. In aggregate women make up around 27 per cent of members of these bodies — well below their 40 per cent share of union membership …
> Thirty-five per cent of national union officials were women leaving a gender gap in women's representation of 5 per cent. Fifty-nine per cent (19 of 32) of unions had less than proportional representation of women amongst union officials. Sixteen per cent … did not have any women officials.

How can the union movement be representative of the interests of women? The report continues:

> Women officials were concentrated in the less powerful, 'non-career path', appointed union positions … Women comprised only 28 per cent of senior officials and 41 per cent of junior officials in unions … Twenty-three per cent … of union secretaries were women, leaving a large gender gap in women's representation of 17 per cent … Of the 12 unions with 50 per cent or more women members, five had women secretaries …

Five out of twelve! The report continues:

> In these same unions, less than half (7 of 16) of assistant secretaries were women.

The track record on gender representation in the Labor Party and the union movement is absolutely appalling. By asking Labor Party members to discriminate by employing union members over non-union members when the majority of union members are male, not female, Labor shows how unrepresentative it continues to be.

Another example of the problems of the union movement in being of relevance to women workers is the case of Natalie Sykes, who resigned as assistant secretary of the Victorian Trades Hall Council citing leadership tensions as a key reason. A *Herald Sun* article dated 21 November written by Felicity Dargan states:

> Ms Sykes, from the right-wing Labor Unity faction, became the first woman elected assistant secretary at Trades Hall in December 1996.

The article also states:

> [She held] the job for three years, had become frustrated by the lack of support from Mr Hubbard and Mr Boyd — and constant fighting between the two men.

She was the first and only woman representative at Trades Hall Council.

The Honourable Gavin Jennings suggested women and workers in general were better off under the union movement and the award system. Prior to the introduction of the Employee Relations Bill by the Kennett government in 1992 and the subsequent introduction of the Workplace Relations Bill by the federal government, 98 per cent of awards were silent on maternity, paternity and adoption leave. The Australian workplace agreements (AWAs) and the new regime introduced flexibility in the workplace. The unions had only a one-size-fits-all approach, which meant no flexibility for family leave or part-time or casual employment.

Hon. Jenny Mikakos — How many women are getting it under AWAs?

Hon. M. T. LUCKINS — I have that information. During the time the ACTU and the then federal Labor government were sponsoring accords between 1983 and 1996 there was a 5 to 15 per cent decline in real wages for low income workers. That is another reason why the decline in membership is so pronounced at the end of this decade — the union movement has not been representative.

Forcing potential employees to become members of the union movement only serves to help the financial position of the union. What are the workers getting out

of it? Nothing! Employees are being asked by employers, because of the employers' pledge, to join the Union because the Labor Party is still run by the Victorian Trades Hall Council, and because the only achievements in the lives of many Labor members of Parliament relate to their status in the union movement. They have been paid off by winning preselection to run for Parliament — —

Hon. T. C. Theophanous — Would you employ a union member?

Hon. M. T. LUCKINS — I would employ regardless of gender, religion or anything else, Mr Theophanous. Yours is the party that is discriminating and contravening the Equal Opportunity Act. I would employ on merit. That is the fundamental difference between the two sides of the house: we would employ the best person for the job.

The minority Labor government has a policy to introduce a workplace relations system in Victoria. I might just bring Mr Theophanous into the debate because he has contradicted the industrial relations policy that Labor put to the people at the last state election. The Labor party proposed to introduce a Victorian state industrial relations system. Mr Theophanous is recorded at page 1015 of *Hansard* of 4 December 1996 as having said:

> We support the principle of a single national system of industrial relations.

An honourable member then interjected, saying, 'Run by Peter Reith', to which Mr Theophanous replied:

> I don't think it matters who it is run by. A federal system and national consistency are important.

That is clearly contradicting the minority Labor government's position and the industrial relations policy it proposed prior to the last state election. It would cost $23 million to re-establish an industrial relations system in Victoria, yet we have a perfectly good, workable system that is achieving real outcomes for workers statewide. It would mean $23 million would not be spent on hospitals and education. The Labor Party should clearly examine public interest tests of its own policies.

Freedom of association — the right to join or not to join a union, an industrial association or an industry association — is one of the most important aspects of democracy. I can just imagine the absolute uproar if the Liberal Party, an industry association or any association aligned with the Liberal Party asked that their potential employees join the party. Labor members opposite would be up in arms because the Liberal Party would be discriminating against non-Liberal people and Labor supporters as well as, potentially, trade union members. Labor members would be on their feet, screaming about the derogation of the principles of the Equal Opportunity Act and the fact that we were encouraging employees and employers to breach the act on the basis of association.

The fact is that the union movement is totally unrepresentative. If people want to join a union, they may do so; if they do not wish to join a union, they do not have to — nor should they be forced to do so. The requirement that ALP members employ only trade union members is typical of the thuggery of the Labor Party, and the union movement which spawned it, for most of this century.

The how-to-vote material is clearly in breach of the Workplace Relations Act and the Victorian Equal Opportunity Act. Some 72.4 per cent of Victorian workers are not union members, and the ALP asks employers who are members of the Labor Party to discriminate formally against more than 70 per cent of Victorian workers. Given that there are 5 per cent more male members than female members in the union movement, in effect it is also asking the potential employers of union members and non-union members to choose, on balance, males over females because the males are union members and the females are not. That is sexual discrimination — gender discrimination — in addition to discrimination relating to freedom of association.

The ALP is actively encouraging employers to break the law and the conventions and provisions of the Equal Opportunity Act and the Workplace Relations Act. I commend the motion to the house.

Motion agreed to.

Sitting suspended 12.52 p.m. until 2.02 p.m.

PERSONAL EXPLANATION

Hon. M. R. THOMSON (Minister for Small Business) — I wish to make a personal explanation. I refer to the adjournment debate on Tuesday, 30 November, in which Dr Ross raised the issue of alcoholic icy poles, which I referred to on 24 November. On that day I said in answer to a question without notice that the icy poles in question contained some 0.5 per cent alcohol by volume.

I should correctly have stated that they contain over 0.5 per cent alcohol by volume and are therefore subject to all the provisions of the Liquor Control Act

1998. I apologise to the house for any misunderstanding I may have caused.

QUESTIONS WITHOUT NOTICE

Member for Chelsea Province: discrimination

Hon. M. T. LUCKINS (Waverley) — Given the recent finding by the Victorian Civil and Administrative Tribunal that the Australian Workers Union and the union's former state secretary discriminated against an employee on the basis of that employee's gender, can the Minister for Industrial Relations assure the house that the government will ensure that all workplaces in Victoria do not allow such discrimination?

Hon. M. M. GOULD (Minister for Industrial Relations) — As I have told the house on a number of occasions, the Bracks government supports and encourages equal opportunity in the workplace and will be promoting, along with the private sector, the notion that it treat its workers equally.

Honourable members interjecting.

Hon. M. M. GOULD — In the public service, where we have greater responsibility as an employer, we will ensure that there is proper equal opportunity for all workers.

Industrial relations: workplace agreements

Hon. E. C. CARBINES (Geelong) — Will the Minister for Industrial Relations inform the house of her plans to assist the 700 000 Victorian workers who are seriously disadvantaged under the current industrial relations system?

Hon. M. M. GOULD (Minister for Industrial Relations) — Honourable members will be aware that Victorian workers do not have the same advantages as workers in other states because they do not have certain common-law rights. There are only two options or possibilities open to Victorian workers, as even Mr Rod Chadwick of the Australian Industry Group acknowledged the other night at the AIG annual dinner. Victorian workers have the opportunity of being covered by federal awards that have a maximum of 20 allowable matters — that is the best option for Victorian workers covered by federal awards.

Between 600 000 and 800 000 workers in Victoria are suffering as a result of Mr Birrell referring them to schedule 1A of the commonwealth act, under which they are covered by only five minimum conditions. Those workers are disadvantaged when compared with the rest of Victorian workers.

I am happy to inform the house that I am writing to Minister Reith and my federal Labor colleagues asking them to support amendments to the Workplace Relations Act that will help those 700 000 workers. We are asking for a comprehensive — —

Honourable members interjecting.

The PRESIDENT — Order! I ask members on my left to desist to allow the minister to complete her answer.

Hon. M. M. GOULD — I will be writing to Minister Reith and to my federal Labor colleagues asking them to support amendments to the Workplace Relations Act so that the 700 000 Victorian workers who have been disadvantaged as a result of Mr Birrell referring them to schedule 1A will, for the first time since that referral, be provided with comprehensive federal awards so that those terms and conditions will be available to all Victorians, not just to some.

I hope that Minister Reith will accept the public's opinion that enough is enough. Victorian workers have suffered as a result of the opposition's referral to schedule 1A. Victorian workers will be properly protected and covered.

Small business: public holidays

Hon. M. A. BIRRELL (East Yarra) — I refer the Minister for Small Business to the industrial action currently being taken by the Shop, Distributive and Allied Employees Union to have Boxing Day and New Year's Day declared public holidays. Because such action would massively increase costs for small businesses, what action is the government planning to take on the request?

Hon. M. R. THOMSON (Minister for Small Business) — The government has been asked to have a look at matters relating to public holidays for the Christmas period. I have already said that.

Honourable members interjecting.

Hon. M. R. THOMSON — The government is yet to make a decision in relation to the request.

Honourable members interjecting.

Sport: women's soccer

Hon. KAYE DARVENIZA (Melbourne West) — Can the Minister for Sport and Recreation inform the

house about how his portfolio is assisting the development of women's sport?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am pleased to report that through an allocation of funds to the Victorian Soccer Federation women are being encouraged to participate in soccer. Last year Women's Soccer Victoria amalgamated with the Victorian Soccer Federation to form a single entity to manage and promote soccer in Victoria. To avoid male dominance, women are guaranteed representation on the board of directors and a women's portfolio has been created on that board. To assist in cementing that merger, the Victorian Soccer Federation has been allocated funds over the next three years to provide a significant focus on developing and promoting female participation.

Strategies adopted by the Victorian Soccer Federation to increase participation by women and girls include promotion of soccer in girls' secondary schools, physical education programs, sports programs and the encouragement of existing clubs to develop a girl's or women's component.

Rotenone

Hon. G. R. CRAIGE (Central Highlands) — In view of the international prohibition of the use of Rotenone and the fact that it has been used in the control of the habitat of the barred galaxias and the spotted tree frog in Victoria, will the Minister for Energy and Resources prohibit the use of Rotenone in all Victorian rivers and streams?

Hon. C. C. BROAD (Minister for Energy and Resources) — I thank the honourable member for his very detailed question. He has obviously been doing some research. The matter has not been raised with me by recreational fishing organisations or anyone else.

Hon. G. R. Craige — You haven't spoken to them!

Hon. C. C. BROAD — Yes, I have. I will be pleased to look at the matter and respond to the honourable member.

Jet skis: rider education

Hon. JENNY MIKAKOS (Jika Jika) — Will the Minister for Ports inform the house what action has been taken to improve the behaviour of personal watercraft riders?

Hon. C. C. BROAD (Minister for Ports) — The government is aware that a range of problems arise from the use of personal watercraft (PWC), also known as jet skis or power skis. Those problems are raised with members in their electorate offices, particularly those members with offices around the bays, inlets and the coast. At this time of year the interaction of riders and other water users becomes a problem. In light of that, the Marine Board of Victoria has been working with the water police, Parks Victoria and the industry to develop better information and education programs to improve rider behaviour. The program initiated by the previous government has been revised to provide a better program setting out more clearly the obligations of users. It also provides better enforcement.

I am pleased to advise that the Marine Board of Victoria has formed, in partnership with Parks Victoria and the industry, a PWC courtesy rider team comprising four people assigned full-time to the operation over the summer period, particularly January. That team will visit all major PWC venues around Port Phillip, Corio and Westernport bays, surf beaches and lakes close to Melbourne. They will be talking to riders as well as enforcing the guidelines.

The Bracks government is committed to introducing licences for PWC operators and is currently exploring the options and benefits of widening that policy to cover other recreational vessels in the future.

Fishing: rock lobsters

Hon. R. H. BOWDEN (South Eastern) — Will the Minister for Energy and Resources advise the house what management system will be implemented to ensure the ongoing access to rock lobsters by licensed fishermen in the eastern zone of Victoria?

Hon. C. C. BROAD (Minister for Energy and Resources) — This matter was initiated by the previous government, including the commissioning of a report which has recently been forwarded to me as the responsible minister.

I understand that process involved a considerable period of consultation with the industry, so I look forward to meeting with the authors of the report to discuss the next steps. The report follows on from decisions made by the former government to introduce a quota system. The method of implementation now requires consideration, and I will consult with the industry, notwithstanding the consultation that has already taken place on the introduction of the quota system.

The method of introduction, which is likely to be controversial given the way the initial allocations are made, is important. So that it may be done in the best

possible way, further consultation with the industry will occur.

Sport: school rowing program

Hon. D. G. HADDEN (Ballarat) — Will the Minister for Sport and Recreation inform the house of the action his department has taken to increase the involvement of state secondary schools in rowing programs?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — As honourable members will be aware, access to rowing as a sport has generally been limited to young people attending private schools. I am pleased to advise that the Victorian Rowing Association, with the aid of an allocation from Sport and Recreation Victoria, is undertaking a program to encourage state secondary schools to participate in rowing. Schools will be encouraged to develop a broader base of participants, which will swell the numbers competing at club level and generate increased competition. In the first year the program will focus on schools — —

Government members interjecting.

The PRESIDENT — Order! Most questions to ministers from the government side are dorothy dixers irrespective of which party occupies those benches. I have already been asked whether ministers are permitted to read answers, and the clear practice is that they may do so if they wish. However, it is better if ministers extemporise and give their own flavour to their answers. I will not allow the constant cacophony of noise and interjections from both sides — but more usually from my left — to drown out ministers' responses.

Hon. M. A. Birrell — On a point of order, in light of your ruling, Mr President, I ask you to reflect on and advise opposition members of any precedents in earlier rulings and anything in *May* that will allow members to round out and understand your ruling, which is new to members on this side — that is, that ministers can slavishly read from notes rather than spontaneously respond, even to a question from their own side.

The PRESIDENT — Order! There is no point of order. All I can reflect on is the practice of the house under the former government, when ministers often read statements.

Hon. M. A. Birrell — I asked for rules.

The PRESIDENT — Order! The practice of the house has been that ministers often read directly from press statements issued around the same time. I will give mature consideration to the issue and give the house a response in due course.

Honourable members interjecting.

The PRESIDENT — Order! Question time is limited to 20 minutes, unless I decide to extend it, which I will not do unless honourable members behave. I ask the minister to continue with his answer.

Hon. J. M. MADDEN — The first year of the program will focus on schools in and around the National Water Sports Centre at Carrum and at other venues in subsequent years. The Victorian Rowing Association will also be developing a resource kit to assist teachers to teach rowing skills.

Carp study

Hon. E. J. POWELL (North Eastern) — In 1998 the former coalition government committed $1 million over three years for a study of carp by Fisheries Victoria to identify potential markets and examine the long-term management and reduction of the carp population in Victorian rivers. I ask the Minister for Energy and Resources whether the Bracks Labor government will continue to support and fund this important study.

Hon. C. C. BROAD (Minister for Energy and Resources) — I advise the member that that commitment is budgeted for and will continue.

Women: discrimination

Hon. G. D. ROMANES (Melbourne) — Will the Minister for Consumer Affairs tell the house what the government is doing to address discrimination against female consumers?

Hon. M. R. THOMSON (Minister for Consumer Affairs) — The government is concerned about any area in which there is discrimination against women either in the provision of services or in sales. A study has been carried out in Victoria and New South Wales on how women perceive they are treated in the area of motor car sales and repairs. The Queensland government has set up a national committee to inquire into the issue, and the Victorian women's affairs bureau and the Office of Fair Trading are also involved.

Last week I had discussions with the Victorian Automobile Chamber of Commerce about a code of conduct it is implementing for its members. The VACC is interested in any findings that come from that working party and is prepared to take them on board.

RAIL CORPORATIONS AND TRANSPORT ACTS (MISCELLANEOUS AMENDMENTS) BILL

Second reading

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

That this bill be now read a second time.

In late August 1999 the previous government's privatisation program for public transport was completed with the transfer of the public transport businesses from the statutory rail corporations to the new private operators and, as it has always said, this government will continue to abide by its commitment to honour the contracts entered into by its predecessor.

Therefore the primary purpose of this bill is to abolish the five statutory corporations which previously operated public transport in Victoria and to transfer any residual assets or liabilities into the Public Transport Corporation. It is intended that the Public Transport Corporation will continue as the only public transport statutory body and will be responsible for winding up the affairs of the rail corporations to be abolished by the provisions of this bill.

The abolition of these five statutory corporations will secure the government cost savings by eliminating the need for boards and chief executives to be appointed as is required by the current legislation.

The other purpose of the bill is to amend the enforcement provisions of the Transport Act to enable officers of the Department of Infrastructure to be authorised to exercise certain enforcement powers previously only able to be exercised by staff employed in the Public Transport Corporation. It is intended to transfer certain enforcement staff from the Public Transport Corporation to the Department of Infrastructure to continue carrying out transport infringement enforcement functions and it is appropriate to enable departmental staff to be authorised if necessary.

In addition the bill makes amendments to two other acts of Parliament to delete references to the statutory rail corporations which are to be abolished by this bill.

I commend the bill to the house.

Debate adjourned on motion of Hon. G. R. CRAIGE (Central Highlands).

Debate adjourned until next day.

GAS INDUSTRY (AMENDMENT) BILL

Second reading

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

That this bill be now read a second time.

The principal purpose of this bill is to amend the Gas Industry Act 1994 to overcome the inconsistency between the announced timetable for retail gas competition and that which is currently enabled in legislation. The amendment will also enable new gas customers who meet the prima facie criteria of the announced timetable, but who have no relevant gas consumption history, to be given the benefit of retail gas competition.

The Gas Industry Act 1994 currently gives effect to four stages, or tranches, in the introduction of customer choice of gas retailer, commencing with the largest customers in September 1998, and concluding with the smallest customers in September 2001.

As a result of delays during 1998 in finalising the economic regulatory regime for the Victorian gas industry, contestability for the first and second tranches was deferred. A new timetable was released under which the first tranche was given retail contestability on 1 October 1999, and the second tranche was scheduled for 1 March 2000. As the timetable for the third and fourth tranches is unchanged, this amendment focuses only on the second tranche.

The bill amends the definition of 'non-franchise customers' to incorporate persons who have purchased not less than 100 000 GJ of gas in the 12 months to 1 March 2000 or, where the supply point is new, will purchase that amount of gas in a following period.

The bill is designed to address uncertainty in the previously announced gas retail contestability timetable, and therefore enables the necessary preparatory work by industry stakeholders to continue.

I commend the bill to the house.

Debate adjourned on motion of Hon. P. R. DAVIS (Gippsland).

Debate adjourned until next day.

CRIMES AT SEA BILL

Second reading

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

That this bill be now read a second time.

This bill is part of a new national cooperative scheme to apply the criminal law in waters surrounding Australia. The new scheme will give Victoria and other Australian jurisdictions a modern regime for dealing with crimes at sea.

The current crimes at sea scheme was developed in the late 1970s. This scheme is seriously flawed. The commonwealth, the states and the Northern Territory took different approaches to the scheme and enacted legislation with many gaps and inconsistencies.

At present, the destination of a ship and where it is registered largely determine the criminal law that applies to an offence. These rules are unnecessarily complex, difficult to understand and apply, and can give rise to overlapping laws. Even when the criminal law is clear, it may be difficult to determine who is responsible for enforcing the law and the procedural rules that apply to investigations. In addition, once the law is determined, the results are not always desirable. For example, in some situations Victorian police investigating an offence in Victorian waters but under New South Wales law are bound to follow New South Wales investigative procedures.

The Special Committee of Solicitors-General developed the new crimes at sea scheme to address these problems. The new scheme will be simpler, easier to understand and apply, and will result in more effective law enforcement. The commonwealth, the states and the Northern Territory have each agreed to enact uniform crimes at sea acts that will give effect to the new scheme and repeal current legislation. This bill will enable Victoria to give effect to the new scheme and will repeal the Crimes (Offences at Sea) Act 1978.

Under the new scheme, the criminal law of each state and the Northern Territory will apply in its respective adjacent area. The adjacent area for Victoria, as for the other jurisdictions, will comprise two areas. In general terms, the criminal law of a state or the Northern Territory will apply by force of its own law out to 12 nautical miles. In addition, the criminal law of a state or the Northern Territory will also apply by force of commonwealth law from 12 nautical miles out to 200 nautical miles or the outer limit of the continental shelf, whichever is the greater. In this outer area, although technically it is commonwealth law, the criminal law will apply as if it were the law of the relevant state or territory.

The new scheme will not apply to the laws of a state or the Northern Territory excluded by regulation from the scheme. Where appropriate, this will enable certain laws to apply outside the crimes at sea scheme. Further, the new scheme does not concern crimes committed outside the adjacent areas of a state or the Northern Territory, although the commonwealth act does deal with some of these crimes. The written consent of the commonwealth Attorney-General must also be obtained to prosecute offences under the scheme involving the jurisdiction of a foreign government. This approach will enable the commonwealth government to consistently apply Australia's international obligations.

The new scheme will also be more effective because all jurisdictions will enter into an intergovernmental agreement to enforce the scheme. In general terms, under this agreement the states and the Northern Territory will have primary responsibility for investigating and prosecuting crimes committed in their respective adjacent areas. Nevertheless, the agreement will provide that jurisdictions should, wherever practicable, provide assistance to one another in investigating offences arising under the scheme. It will also provide that where more than one jurisdiction is empowered to prosecute an offence, those jurisdictions should consult to determine the jurisdiction that is most convenient for prosecution.

Under the new scheme the authority that is investigating or prosecuting the offence will do so in accordance with its own procedures. For example, Victorian police investigating an offence under New South Wales law will investigate according to Victorian investigative procedures. The New South Wales offence could be tried in a Victorian court according to Victorian procedural law.

In summary, the central aim of the scheme is to provide greater simplicity. The scheme will clarify how the criminal law applies to crimes committed offshore and will simplify investigation and prosecution procedures. In this way, the new scheme will be more efficient and will ensure that crimes do not go unpunished because of legal technicalities.

I commend the bill to the house.

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

Debate adjourned until next day.

ESSENTIAL SERVICES (YEAR 2000) BILL

Second reading

Debate resumed from 30 November; motion of Hon. M. M. GOULD (Minister for Industrial Relations).

Hon. BILL FORWOOD (Templestowe) — The Essential Services (Year 2000) Bill provides a temporary system of emergency powers to deal with events arising from year 2000 (Y2K) computer problems and to amend the Emergency Management Act. It is one of a suite of actions that the government and the former government have taken to address concerns arising about the millennium bug. The opposition supports the legislation which, in some senses, was well in the drafting stages when the Labor Party came to government.

I foreshadow that my colleague, the Leader of the National Party, who was at the time the responsible minister for Y2K, will make a contribution to the debate. Although the opposition supports the legislation, it has some concerns; for that reason, the opposition will take the bill into the committee stage to debate its concerns.

It is not surprising that the opposition supports the bill. When in government it took a strong interest in Y2K issues. The Leader of the National Party was, I believe, the first minister in Australia to be appointed minister responsible for Y2K issues. At the same time the Y2K risk management unit was established. It was headed ably by Adam Todhunter. From that unit came a range of activities.

Hon. T. C. Theophanous — The Public Accounts and Estimates Committee smartened them up.

Hon. BILL FORWOOD — I will never miss an opportunity, Mr Theophanous, to say what a good committee we had. I will go into detail about the report on which you and I worked so assiduously. But I am not there yet, so hold your horses!

Adam Todhunter headed the risk management unit, which developed a program that was later replicated elsewhere in Australia. It entered into arrangements with other organisations, including the Rotary Club of Australia, to enable techniques developed in Victoria to be taken overseas and to areas that were not as well prepared.

Victoria is well prepared for any event that may occur. That has come about not by accident but by dint of the real effort and thought that have been put into the issue. It is no surprise that the opposition supports the bill.

It is interesting to reflect on the fact that the then Minister for Finance, the Honourable Roger Hallam, was fond of saying that sunlight was the best disinfectant. Through the risk management unit the former government was trying to establish real scrutiny of the situation not only to anticipate what may or may not happen but also to have contingency plans in place. It is clear from its clauses that the bill is not intended to come into operation unless it is needed. In that sense it is part of the contingency plans.

As Mr Theophanous said earlier, as chairman of the Public Accounts and Estimates Committee (PAEC) I took an active interest in the issue. In 1997 the Auditor-General raised concerns about what was happening with Y2K preparedness. As a result of that concern, in February 1998 the PAEC took on a reference to look at Y2K preparedness in Victoria in relation to not only all sections of the public sector, including the privatised utilities, but its community aspects and the relationship between the private and public sectors.

The committee put real energy into preparing the report. I believe one of the reasons the government took the action it took was because of the impetus given to the process by the PAEC's inquiry which led to its report *Information Technology and the Year 2000 Problem — Is the Victorian Public Sector Ready?*. The PAEC subcommittee that investigated the issue was chaired by the honourable member for Monbulk, Steve McArthur, in the other place and included the Honourable Theo Theophanous, the Attorney-General in the other place and me. All members of the full committee became involved later.

When preparing my contribution I refreshed my memory of the process the subcommittee undertook. It held a huge number of briefings both in Victoria and interstate. The extensive list of people with whom the subcommittee met included Graeme Inchley; it met with Graeme at the commencement and the concluding stages of the inquiry. Most honourable members know that Graeme is the chief executive officer of the Y2K program for the federal government — that, in essence, is a global way of expressing it.

Hon. R. M. Hallam — And a good bloke, as well.

Hon. BILL FORWOOD — Yes, a very nice fellow.

Some extraordinary stories came out during the committee hearings. I have told the story before, but it bears repeating, about a guy in New South Wales who had undertaken some contingency work on what might

happen when the date ticked over. His staff came back and told him not to worry, things would be all right, there was no problem. He said, 'I am a nervous man, humour me, and just run it for a while'. So they ran the program through and got to 26 February 2000, the 27th, 28th, 29th, 30th, 31st, 32nd, 33rd — they would never get to March, so they had a problem. That sort of story enabled people to come to grips with some of the year 2000 issues.

I am interested in the state of preparedness of the Victorian government, as are all honourable members. I am concerned that there has not been another report since the July report. My understanding is that tomorrow the government intends to make available to the public the Y2K risk management unit's reports for August, September, October and November. Although I accept that the July report, which is the most recent, indicates that most portfolio agencies are 100 per cent or close to 100 per cent ready, and are either at or close to 100 per cent in contingency plan development, I am concerned that the government has now been in place since 20 October and it has yet to release documents that I know were prepared for the months of August and September, and presumably were finished off in October and not yesterday. I will investigate during the committee stage why those documents were not made available so this house at least, if not the other house, could have had the opportunity to consider the most up-to-date information on Victoria's preparedness under Y2K.

The Public Accounts and Estimates Committee put its oar in and kept it there and maintained its interest in the issue. Just on a year ago the PAEC ran a seminar in Parliament House called, 'An MP's guide to the year 2000 problem and its implications for Australia and Victoria'. It is worth quoting from the flier the committee used to promote the seminar a year ago. In July 1998 John Fahey, the federal Minister for Finance, states:

> The year 2000 date change problem is one of the biggest management problems to ever be faced by governments and businesses internationally. The sheer magnitude is enormous … if it is not faced squarely and substantially eliminated by governments and the community generally, the economic and social ramifications will be nothing short of disastrous.

That is another indication of the importance that was put on the issue by all governments — and I know the Canadian government is another government that has worked hard on the issue. As I said in the house in May when honourable members discussed the good Samaritan legislation — another of those packages of legislation taken by this government and the previous government to deal with the issue — Victoria has been internationally recognised as one of the most, if not the most, prepared areas in the world.

Hon. S. M. Nguyen — Who are the others?

Hon. BILL FORWOOD — Canada, the United States, and parts of Europe. Victoria is recognised as the leader in Australia, but Australia is recognised as being as prepared as anywhere else in the world.

Hon. R. M. Hallam — Among the leaders.

Hon. BILL FORWOOD — Among the leaders is the best way of putting it. At the seminar Maurice Newman, the chair of the overall organisation, then Minister for Finance, Roger Hallam, and the current Leader of the Opposition in this place, Mark Birrell, spoke on various aspects of Y2K to try to give members of Parliament the ability to communicate some of the issues to the wider community, because this is not just a government issue — it is a community issue.

In my capacity as chairman of the PAEC I attended a number of community meetings and met with a number of people who were concerned to get communities prepared and able to cope with the issues. Frankly, some community issues scared the hell out of me because they belonged to the doomsday-scenario end of the spectrum. I am a relatively prudent man. I do not take things for granted. I put energy and work into the issue and I hope I will not scare the horses. One of the key findings of the report is mentioned in the chairman's introduction:

> At the outset, it is crucial to state the committee's view that the year 2000 problem is not a doomsday scenario, and it specifically rejects that prospect. Indeed, it may well be that worse problems will be caused because of fear of what might happen than by what actually occurs. In fact, what will happen is uncertain.

That uncertainty is the reason we are dealing with the bill today. The doomsday people are around and they need some assurances. That assurance best comes from the preparation of the risk management unit reports, which is why I am concerned that some of them are yet to be released. There are people — I have some in my electorate — who have informed me that they are leaving to go to the hills. They are taking water purifiers, tents and lots of batteries.

Hon. M. M. Gould — Lots of cash?

Hon. BILL FORWOOD — Yes, they are taking cash as well, although I was pleased to see the Governor of the Reserve Bank say yesterday that there

was not a concern about that. The committee met in Sydney with representatives of the Reserve Bank more than two years ago and at that stage the bank was getting well prepared. The committee met with a lot of people, which is why I have some confidence that the sky will not fall in.

On 28 August 1998 the committee met with representatives from Vencorp, Vicroads, Gas Information Systems, Melbourne Water and Theo Van Den Muelen from SMS Consulting. He was the guru on electricity industry readiness for Y2K, and he went on to work not only in Victoria but also, because of the interlinks with them, in other states. The committee met with representatives of the Department of Justice because it needed to talk to the police, the Country Fire Authority, the Metropolitan Fire and Emergency Services Board, and the State Emergency Service. It also met with representatives from the Department of Human Services, the Department of Infrastructure, Telstra, the Public Transport Corporation, and the Department of Treasury and Finance to satisfy itself that it was moving in the right direction. I am confident we are.

However, today we find ourselves debating the final part of the package that has been put in place to deal with those issues. As I said at the outset, the opposition supports the bill but has some concerns. I will raise some of them and deal with them in more detail in the committee stage. In the second-reading speech the minister states:

> There may be those that feel that the powers given to the minister are so broad as to be almost draconian.

At school I learnt a bit about Greek history. I remember Draco. He was an Athenian ruler in about 600 BC who passed some laws that at the time were described by others as rigorous, harsh, severe and cruel. It is interesting that the word 'draconian' should come into the second-reading speech. We are talking about a democracy in the years 1999 and 2000 and our capacity to react to a situation. Yet in her second-reading speech the minister described the legislation as in essence, rigorous, harsh, severe and cruel.

The great concern the opposition has about the bill is that it has not been through a scrutiny of acts and regulations committee process (SARC). I understand some issues exist about the establishment of the parliamentary committees. However, SARC undertakes specific responsibilities that are worth putting on the record. Section 4D of the Parliamentary Committees Act states that the functions of the Scrutiny of Acts and Regulations Committee are:

> (a) to consider any Bill introduced into a House of the Parliament —

that obviously covers this case —

> and to report to the Parliament —

that process has not taken place —

> as to whether the Bill, by express words or otherwise —
>
> (i) trespasses unduly upon rights or freedoms; or
>
> (ii) makes rights, freedoms or obligations dependent upon insufficiently defined administrative powers; or
>
> (iii) makes rights, freedoms or obligations dependent upon non-reviewable administrative decisions; or
>
> (iv) inappropriately delegates legislative power; or
>
> (v) insufficiently subjects the exercise of legislative power to parliamentary scrutiny …

Section 4D(b) of the act outlines another specific function of the committee, which is:

> (b) to consider any bill introduced into a House of the Parliament and to report to the Parliament —
>
> (i) as to whether the bill by express words or otherwise repeals, alters or varies section 85 of the Constitution Act …

The bill does just that. Members on this side of the house will remember the extraordinary cant and hypocrisy that was thrown about day after day, week after week, month after month and year after year about the Kennett government's trammelling the rights of individuals, using section 85 to subvert the powers of the Supreme Court and doing other dreadful things; yet of the four bills the government has introduced so far, two of them — —

Hon. R. M. Hallam — That is not a bad strike rate.

Hon. BILL FORWOOD — Yes, it is up to 50–50 at the moment. Two of the government's bills have had section 85 — —

Hon. R. M. Hallam — Without apology.

Hon. BILL FORWOOD — Without apology. Although, to the minister's credit, when she read the second-reading speech on cross-vesting she had a wry smile on her face.

Hon. R. M. Hallam — She looked a bit embarrassed.

Hon. BILL FORWOOD — A bit embarrassed, yes. I will leave that issue at this point. However, the

matter being debated is of concern to the opposition. According to the government's own description the bill contains draconian powers, yet it has not been through a scrutiny process. One of the prime reasons the opposition wants the committee stage to take place today is to test some of the powers provided for under clause 5.

Clause 5(1) states that:

> … the Minister may give any directions that he or she thinks necessary —
>
> (a) to ensure the continuity or resumption of the essential service …

It talks about defining what an essential service is. I go back to the definition of an essential service — that is anything the Governor in Council may decide. That means anything can become an essential service. The powers — the government's word, not mine — are draconian. In the committee stage the opposition will discuss and explore the issues of powers and compensation.

Clause 13 deals with the powers of the inspectors to be appointed under the act. Subclause (1) states:

> The Minister may appoint a person to be an inspector for the purposes of this Part.

It then deals with the powers of inspectors.

I reiterate that honourable members on this side support the bill. However, we are interested in the operational aspects of the powers of inspectors, particularly the relationship between clause 30 and clauses 5 and 13. I need not remind honourable members opposite that clause 30 gives the minister — in this case the Premier — the capacity to delegate to any person any of his powers, apart from the power to delegate itself.

Hon. R. M. Hallam — Everything, absolutely everything. Extraordinary!

Hon. BILL FORWOOD — Yes, everything, except that power of delegation. In the committee stage the opposition will look at a number of issues, but the relationship between the delegation powers of the inspectors and the powers of the minister under section 5 is the main issue it is keen to investigate.

The bill contains a clause providing for it to sunset on 30 June 2001. The opposition understands and accepts the necessity for that provision, but the part of the bill that will amend the Emergency Management Act and after the definition of 'emergency' insert the words 'a disruption to an essential service' will go into the statute book forever — it will become part of section 4(1) of that act. The bill also inserts a definition of 'essential service' in the act that covers transport, fuel, light, power, water, sewerage and:

> a service (whether or not of a type similar to the foregoing) declared to be an essential service by the Governor in Council under sub-section (2).

Proposed subsection (2) boldly states:

> The Governor in Council, by order published in the Government Gazette, may declare a service to be an essential service for the purposes of this Act.

I am interested in canvassing those issues because those provisions will be in the statute books forever. I understand that when the act sunsets in 2001 — I look forward to being corrected if I am mistaken — those provisions will stay in the Emergency Management Act forever.

As I said at the outset, the opposition supports the bill because it is a logical step on the path of preparing for 2000. It seems extraordinary that so much money, time and energy has gone into solving this man-made problem. I do not subscribe to the view put by some — one spectrum of the doomsday scenario — that it was a deliberate effort by the Americans in the middle of the 1950s and 1960s to set the world up so it would fail. It is ironic to think that we will soon celebrate the year 2000. What is the year 2000? It is not 2000 years since the birth of Christ; we all know that he was born in 4 BC or 5 BC and that the calendar is a man-made construct. I think the construction — —

Hon. M. M. Gould — Are you sure we all know that?

Hon. BILL FORWOOD — So there are other churches that use different calendars. I rest my case. We are operating under a man-made construct — the calendar — which on my understanding was invented by a Greek, or it might have been a Roman, in about 530 AD, and which was backdated — and the backdating was wrong. In the 16th century people switched from the Gregorian calendar to the Julian calendar, or the other way around, and lopped off 13 days. So on 1 January next year we will be celebrating 2000 years of heaven knows what, but that neither makes the situation any less serious nor in any sense leaves us unprepared for the events that may take place.

The opposition will support the bill. However, I look forward to canvassing some of the issues that I raised in the committee stages.

Hon. G. W. JENNINGS (Melbourne) — I welcome the opportunity to join the debate on the bill and thank the Honourable Bill Forwood for his contribution. Many of the issues that have been raised are fair and reasonable, and the government will be happy to deal with them in the committee stage. I may address some of those questions in passing during my contribution.

Perhaps I could start at the end of both the honourable member's contribution and the bill. The last provision is a sunset clause that provides the bill will expire on 30 June 2001, thus ensuring that ministerial powers under the bill, including the power to delegate, will conclude at that time. As I understand it, the honourable member is correct in stating that a number of powers may be added to the Emergency Management Act 1986.

I agree that such significant powers should not be provided by Parliament as a matter of course without some clear intention being put on the record regarding the limits of those powers and the degree of accountability to Parliament and the people of Victoria.

Significant issues arise. The amendments to the Emergency Management Act, including matters the scope of which is hard to describe, are difficult to define. Many people have highlighted the technical impact of the millennium bug on computer systems — systems may not be able to recognise where they are in space and time and subsequently software might not operate to maintain electronic information or management systems.

In some ways it is understandable that the modification of existing acts may seem somewhat vague and imprecise and based upon a reaction to an emergency or crisis, should one eventuate. Honourable members hope the provisions of the act will not have to be implemented and that matters of concern will not come to a head and therefore contingency plans will not need to be brought into use. Certainly that is the government's hope and intention, but both the former government and the incoming government have put in place contingency plans through legislation that may be required to manage problems that may arise with information or management systems operating in the Victorian public sector.

Victoria's state of preparedness and capacity to address such concerns has been acknowledged in debate as virtually second to none across the globe. Victorians should be pleased about Victoria's effective and efficient management of contingency arrangements and putting into place of mechanisms to deal with potential problems. Victorians should be mindful that other countries, governments and communities may not be as well prepared as Victoria and that many of the downstream consequences to Victoria may derive from what are currently uncharted waters — trickle-down or flow-on effects that hit our shores from elsewhere.

Regarding confidence within Victoria, I believe most public sector bodies, corporations and other businesses have been mindful of the year 2000, or Y2K, issue for some time and have taken appropriate steps to get on top of it. However, it is difficult to assess the impact upon the Victorian community and economy of a lack of preparedness or compliance elsewhere — for example, in the delivery of goods, transport services and information services from other countries.

The value of the work that has been done in Victoria and of the legislation prepared will become apparent when dealing with any crisis that may emanate from within the boundaries of Victoria to ensure the maintenance of services such as an ongoing electricity supply and that the government has the capacity to manage any such crisis. The more insidious concerns — the longer term problems that may arise in dribs and drabs and the implication of matters that may not have a high profile — may require some subsidiary or complementary activity to the powers outlined in the bill.

I take this opportunity to address some of the concerns raised by opposition members about the bill. On reflection I think it was unfortunate that the colourful term 'draconian' was used in the second-reading speech and debate. The purpose of the legislation is to reduce alarm and in a considered fashion to establish an appropriate regime for ensuring information and management systems are maintained and services continue, giving people some degree of confidence when going into uncharted waters. In that context it is unfortunate that terms were used in debate that may cause alarm bells to ring in the community. The only sense in which the definition of draconian given by the Honourable Bill Forwood may apply is in the sense of rigour. I am happy for the government's legislation to be described as rigorous, comprehensive and addressing the issues it needs to address, but I would be concerned if any alarm bells rung in Parliament were to sound in the Victorian or broader community regarding the intent of the legislation.

The intent of the government is to establish some sense of equilibrium in dealing with the unknown, which is the situation the government has to deal with. No-one knows whether a script for a disaster movie will be played out on 30 December or on any of the other key

dates identified in the bill over the next 6 to 12 months. As a consequence the government has put in place a rigorous framework that in an emergency will invoke some powers that under normal circumstances the government would be reluctant to introduce. The opposition is right to expose the government to a degree of scrutiny to ensure that the government has no intention, at any time during the next year and a half or beyond that time, to inappropriately use the powers established under the bill.

As the opposition has rightly pointed out to ministers since the new government was elected, ministerial responsibility is an onerous task that should not be taken lightly. The powers available to ministers should not be misused or abused. Ministers should be accountable to the spirit of the legislation as described during a second-reading debate, including government contributions, and in undertakings given at a committee stage. I hope the government will be able to satisfy the concerns and allay the alarms of the opposition in dealing with this matter in committee.

Hon. Bill Forwood — Not alarms, concerns.

Hon. G. W. JENNINGS — I am pleased to hear that even what I may have interpreted as alarms have now been expressed as legitimate concerns. I am happy to take the heat out of the language used in this place so that the right message is conveyed to the community about how to deal with these matters.

Hon. R. M. Hallam — We agreed 'draconian' was an inappropriate term, even though it was used moderately.

The DEPUTY PRESIDENT — Order! The house will wait until the committee stage to discuss that.

Hon. G. W. JENNINGS — There are no major problems here. The opposition has made an important point about to whom the minister may delegate powers. It will not come as a big surprise to anyone that it is envisaged that the powers may be delegated to the likes of the Chief Commissioner of Police or the Chief Electrical Inspector, because they will obviously have a role to play if any emergency situation arises. In fact, subsequent administrative arrangements should set out clear lines of delegation, and arrangements should be put in place specifying the major officers who will be implementing the powers of the act on behalf of the minister.

The powers that may be ascribed to inspectors and their activities are of particular concern to those with a civil libertarian streak. It is the government's responsibility to ensure that anybody appointed as an inspector operates in a fashion that could not be part of the script of the potential horror movie I described before. It is vital that inspectors operate in a considered and cooperative arrangement with those with whom they come into contact in exercising their functions.

It is important to ensure that those who undertake responsibilities under the act and operates on behalf of the Victorian community in this exercise are very clear about the appropriate and expected behaviour in terms of courtesy and value of human life and property. They need to be clear about the compensation that may be applied under the terms of the act to minimise the exposure of the government and the people of Victoria to any injury or damage to property, or any other property issues relating to appropriation for a short period under the emergency situation outlined in the legislation. There is a need to ensure that Victorians as individuals and property holders are not severely disadvantaged; that the only context in which the provisions of this bill will apply to individuals and corporations is in ensuring the protection of the public good; and that that must not be used in a vexatious or arbitrary fashion that would result in damages being incurred by individuals corporations or companies. That was clearly not the government's intention in drafting the bill and presenting it to Parliament.

I have outlined the intention of the government in its preparation and introduction of the bill. I have addressed concerns that the opposition may raise in light of the bill's structure and content. I have tried to clarify in some way the government's intention to ensure that this component of the contingency plan continues. It has been in operation for some time. I do not have any reluctance in acknowledging the role of the former government in getting on top of this issue and preparing a contingency plan and the draft framework of the bill now before the house.

In conclusion, rather than my concern being about the abuse of power available under the bill — the Bracks government has an obligation to ensure the legislation is administered soundly and that it does not disadvantage Victorians — it is about the government's capacity to monitor the downstream problems that I flagged in my contribution to the debate, which may emanate in small neighbourhoods, schools, community groups and the like. They may arise from small businesses throughout Victoria or from consequences faced by the Victorian community as a result of the lack of preparation by other governments, manufacturers or suppliers of services from outside Australia. There will be a need to develop a complementary capacity within government and the community to properly monitor and address the issues which do not fall into the

category of a crisis or emergency but which may have an impact on the daily lives of Victorians in the years ahead.

The government and I certainly hope a crisis does not emerge and the act does not have to be fully implemented. It is my hope for the Victorian and international community that the Y2K issue will not be a disruptive element in our lives next year and beyond. However, it is important that the bill be passed by Parliament and be ready for implementation by the end of the year.

Hon. R. M. HALLAM (Western) — In supporting the Essential Services (Year 2000) Bill, I offer the passing comment that I also have a personal interest in it, given that I was the minister directly responsible for addressing the millennium bug issue under the former Kennett administration. We worked on the thesis that it was more appropriate to address the potential of any dislocation of services through very careful planning in advance rather than to rely upon the best of emergency management on D-day. We followed that thesis in some detail.

Two fundamental tasks were accepted by the minister responsible for Y2K across the public sector. In fact, as part of the importance placed on this issue by the former Kennett administration, two ministers were given various responsibilities for the potential dislocation caused by the millennium bug. It was my responsibility to consider the potential problems faced by the public sector, and the Honourable Mark Birrell accepted a particular responsibility in anticipation of the impact on the private sector. I speak, then, in respect of the responsibility that befell me.

As I said, we took two particular issues to heart. The first was that we should look carefully at the question of readiness testing and contingency planning and minimise the risk of down time and dislocation by that careful planning. In addition, we took the view that if we got the public sector by and large prepared for the millennium bug, by so doing we might have an added advantage of dragging the private sector along with us. It was thought that having the public sector well prepared might through example lead, entice, and maybe even shame the private sector into acknowledging the problem. That outlook saw us promote the good Samaritan legislation, which I am proud to say was an initiative of the Victorian government.

Hon. Bill Forwood — We dragged the others screaming with us!

Hon. R. M. HALLAM — We took others screaming with us. I note in particular the work done by the Public Accounts and Estimates Committee, which was chaired by Mr Forwood. I also note that I was able to persuade the then Premier that it was wise legislation, and as a result he used his most persuasive powers on the Prime Minister. Early on we took a decision that if we could not persuade the other jurisdictions to come with us we would initiate our own legislation. It was a brave and groundbreaking decision. I am delighted that the good Samaritan initiative helped overcome the concern we had about a fear of litigation preventing people talking about their level of readiness and thereby inadvertently creating an even greater problem.

I go back one step to discuss how the former government handled the issue in the public sector. We asked each of the agencies involved in the public sector to nominate those business systems that they judged to be critical to their operational objectives — and as a result thousands were identified across the entire public sector. Then the most sophisticated audit process that I have come across were developed to monitor those business-critical systems.

Mr Forwood talked about the unit established in the Department of Treasury and Finance under the leadership of Adam Todhunter. I told Mr Todhunter that I wanted an audit program that went beyond just having officers sign off on readiness assessment and contingency planning to one that had people putting their reputations on the line. It started from the premise that the best way of doing that would be to have internal auditors sign off to the effect that they were satisfied that the readiness testing and contingency planning were up to speed. Given that it was an area of specific expertise, I was concerned that if we left it to individual officers and Murphy's law prevailed, those officers might simply disappear into the ether and we would not hear from them again. I wanted something more lasting than personal commitment. I wanted professional commitment to be on the line, and we engineered the audit process on that basis.

Mr Forwood was kind enough to refer to the saying that became fashionable at the time — that is, that sunshine was the best disinfectant. I will take it one step further. The audit tool was reduced to colours, which made it simple and enabled the areas where more work was required to be identified quickly. I was careful to make it clear to all involved that red, which signified that more work needed to be done, was not a danger signal but an identifier. So disclosure became a virtue and discipline drove the process. I am delighted that that model became part of the national scene and, as

Mr Forwood mentioned, is now recognised by a number of agencies around the world, not the least being Rotary International. I am delighted and proud to be able to again report to the house that an initiative taken in Victoria became the benchmark way beyond our borders.

I also make the point that the required monthly assessments were able to be undertaken electronically, which ensured they were up to date, quick and simple. They went up the administrative chain to each of the managers, then to the minister, then to the Premier and ultimately to the cabinet. The good thing about the process was the cabinet's mature decision to have the reports presented to it become the public reports. It took some discussing the first time it came up, which no-one would be surprised to hear, but it is to the eternal credit of the Kennett cabinet that only the issuing of the first report was discussed. From then it became a matter of course that the cabinet reports went out into the marketplace. I make the point again that that discipline became an important part of the process. It is worth noting that the reports were not just about a readiness assessment with contingency planning included as an afterthought; they went through the process in detail.

The assessment was based on five headings. The first involved a risk analysis of business-critical systems or processes. Second, it reported on the allocation of resources. Third, it talked about an assessment of remedial activity and testing. Fourth, it required each of those undertaking the audit to assess the outcome in respect of management commitment, so people were required to report on the support they were getting from their superiors. The fact that the superiors knew a report was coming is the best indication of the sort of discipline we were looking for. Finally, on the assumption that Murphy's law might prevail, in each case the agencies were required to report on any contingency plans that had been completed.

I am also pleased to report that the last of those public audit outcomes published by the Kennett government took us up to 16 July. It reported that the average readiness level across the entire public sector was 98.4 per cent and that the average contingency planning level was 96.4 per cent. We had dragged that up from relatively low levels in the first days of the report. I do not think there is another jurisdiction across the nation and maybe not another one across the Western world that has achieved that sort of preparedness for Y2K. As Mr Forwood said, it was a matter of some pride to us that the audit tool and not just the outcome became cited way beyond our borders.

It is also a matter of some regret that that is the last report that has been made publicly available. During the caretaker term of the Kennett government I had the next report made available to me. I considered it inappropriate under the caretaker conventions to release the report, but I presumed that when the outcome of the election was known the new government would release it as a matter of course. Along with Mr Forwood I am disturbed to learn that the past four months will be lumped together in a report that will be released in the next few days, if for no other reason than that it depreciates the importance placed on the process by the previous administration and does nothing to add to the discipline we were looking for.

As an indication of the commitment given by the former Kennett government, it was able to isolate almost $400 million in capital funding that went directly to addressing the Y2K problem. I remember taking an argument to the cabinet that assessment of the claims coming in should be accelerated because the major work on Y2K fell in the middle of a budgetary cycle. In December 1998 I persuaded my colleagues that the door should be opened on another round of capital investment on the premise that if it were approved for the budget applying from 1 July the argument that the merit of the investment would be enhanced by making it earlier would be even more compelling. I was concerned that if the issue were left until the traditional budget round the equipment may be harder to locate and that the expertise most certainly would be. I argued that Victoria should strike earlier than the other jurisdictions given the competition the government expected to encounter. I can report to the chamber that more than $130 million was allocated because of that additional budget cycle, most of it directed to the critical-care section of the health department.

While it was generally recognised that the work was important there was some healthy scepticism among some of my colleagues. After the then Premier had been convinced to open the door to another budgetary round I told him that the best I could deliver would be an absolutely uneventful 1 January 2000. He expressed the view that this may be some sort of diabolical construction by the industry involved. It is ironic that if the work is completed successfully, nothing will happen. The best I could hope for was a pat on the head and a note saying that I was wrong — nothing happened and the funds should not have been allocated. I admit that was said very much tongue in cheek.

Although the then government recognised the importance of preparing the Victorian community and went to great lengths to bring both the public sector and

the private sector up to speed, it recognised also that some issues went way beyond its boundaries. I remember talking this through at length with my federal colleagues. The example I gave repeatedly was that although the government might spend all that time, energy and effort in getting its backyard under control — and it did — there was a real danger in feeling good about the situation. It had to be recognised that if the back garden were manicured to the ultimate degree, as it were, others would claim it.

The previous speaker mentioned the exposure from that direction. The government was taking account of the fact that its major trading partners in the Asian sector were paying little attention to the prospect of Y2K disruption; they had other major problems on their agenda. Many of them were starting from the premise that there would be no failure. Little work was being done in advance of the critical dates.

Given that Australia is totally dependent on its performance as a trading nation I, for one, saw enormous danger in not having our trading partners understand the importance of the issues. The government did what it could to bring them up to speed against the better judgment of some who said it was a chance for Australia to gain a competitive edge that should not be given away. My view was and is that the reverse is true — it may well turn out that the major risk comes from the importation of the problems of others. That is by way of general background.

On top of that the government recognised that irrespective of how well it planned, it had to acknowledge that much of its emergency services legislation was out of date and that it should take to the Parliament what it deemed to be necessary to bring that legislation up to modern standards. Much of the legislation was written when no-one — not even Buck Rogers — thought about a Y2K problem; some of it was written in the 1960s when a Y2K problem was science fiction several times removed. Everyone acknowledged that that legislation may have to be revisited, which is what the bill does.

I am happy to acknowledge that the opposition supports the legislation. The approval in principle was taken in cabinet under my patronage. However, that does not change the opposition's concern about how the bill is framed. It is clear to members on this side that the government has overreacted to the authority given to the minister. Both the powers of the inspectors and of delegation are extraordinarily broad and go over the top.

The provision relating to compensation raises more questions than it answers. Given that the authority under the emergency services legislation is at least under a question mark — notwithstanding that it might well turn out to be belt-and-braces legislation — it is appropriate that it should be considered further.

If there is a saving grace it is that the legislation goes into oblivion on 30 June 2001. If it were not for that fact I, for one, would have strenuously argued that the opposition should dig its heels in on the powers of delegation, those given to inspectors and the extraordinarily wide definitions in the terms of the administration of the measure.

All in all, and given that it acknowledges that the bill was part of the preparation for the millennium bug, the opposition is prepared to pass the legislation on the premise that it gets some pretty fair indications of how the administrative part of the legislation will be viewed in a practical sense should the worst happen and the powers in the legislation are called upon.

Against that background I am happy to be involved in the debate. It is good legislation. I have been asked why, if the issue is so important, the other jurisdictions are not doing likewise. I do not answer for those jurisdictions; they can look after themselves to some degree, although I admit that there is a vested interest in ensuring that they do their homework.

As the proposed emergency services legislation is old, the opposition considered it appropriate to check it carefully to ensure that any potential administrative dangers were addressed in advance, exactly as it had viewed Y2K from the very day that it was recognised as an issue that had to be addressed by the Parliament. On that basis I wish the bill a speedy passage and look forward to the government's responses during the committee stage.

Hon. S. M. NGUYEN (Melbourne West) — I am delighted to take part in the debate on the Essential Services (Year 2000) Bill. I have listened to the contributions from other members, who recognise that this is an important bill for the month to come. There is only one month before we enter the new year. Honourable members are aware of the concern of Victorian communities about the services that will be affected by the transition into the new century. Members of the community are concerned to learn more about what the government is doing to reduce any adverse impact on services. As a member of Parliament I have met many leaders of the business community, and they are waiting to see what will happen in 2000.

We are about to enter the period of Christmas and New Year celebrations when big events will be held at big facilities in Melbourne and throughout the world. Victorians are looking forward to the new year, but at the same time they are concerned about the collapse of so-called computing, technology and computer software which may affect essential services such as the supply of water and food. Most people are worried about those issues and do not understand what action the government has taken to prevent problems occurring. People will start to buy food to store in their homes for fear of problems with the supply of food in 2000. As a member of this place I am happy to debate this bill as it sends the community the confident message that the government is concerned about their welfare with the fast-approaching deadline and that it has taken action to minimise potential problems.

Victoria is one of the states leading the nation with regard to year 2000 (Y2K) compliance. In his contribution to the debate on this bill in the other place the Minister for Finance, who is responsible for Y2K preparedness, said that close to 100 per cent of the public sector has complied with the government's Y2K requirements. The government will try to maintain the delivery of services; it will try to make it business as usual, and it accepts that responsibility.

Computers are everywhere in our lives; most things in our houses are computerised, including electricity, gas and water supplies. That was highlighted by fairly recent events involving shortages of those essential services, particularly with the gas problem in Melbourne last year. It is hoped that we have learned from those incidents to ensure they will not happen again.

The bill provides the power for the Governor in Council to declare a state of emergency. The power is outright and tough and includes enforcement provisions. If something goes wrong on the day, people will be able to pick up the phone and talk to personnel of the various emergency services or hospitals. Even people who cannot speak English well can be confident that they will be able to seek assistance from a government department. The Victorian government is in readiness for 2000. I support the bill.

Hon. K. M. SMITH (South Eastern) — I support the Essential Services (Year 2000) Bill, which is an important measure dealing with year 2000 (Y2K) technology and the problems it may cause in the coming 18 months.

I have a couple of concerns about the bill. Firstly, it does not conform to the requirements of the Parliamentary Committees Act, which is an important issue. The bill should have been considered by a parliamentary committee such as the former Scrutiny of Acts and Regulations Committee. Section 4D of the act states that the functions of that committee are:

> (a) to consider any Bill introduced into a House of the Parliament and to report to the Parliament as to whether the Bill, by express words or otherwise …

The act lists a range of areas that should be reported back to Parliament. That has not occurred because the minority Bracks government is in a position where it has not gone to the trouble or effort to put those committees in place. You, Mr Acting President, were chairman of one of the committees in the previous Parliament, as was Mr Forwood.

The opposition understands the importance for a government of having parliamentary committees examine legislation and other issues before their presentation to Parliament and of obtaining reports from all-party committees. It is important to understand that Parliament has all-party committees and that rarely have minority reports been presented to Parliament on any investigations conducted by committees. Why has the government not established the committees? It is in breach of the statutes in allowing legislation to pass without having been scrutinised by a parliamentary committee.

The bill is important and should have been studied by a committee. A report should have been presented so all honourable members could have examined the intricacies of the bill. Earlier Mr Forwood and Mr Hallam raised concerns about lack of scrutiny. Some of their concerns will be raised in the committee stage. Let us have on the record the answers to the opposition's concerns.

The bill gives enormous powers to the Premier. If anything goes wrong — I am not scaremongering; we don't know what will happen — I will feel comfortable in the fact that the former Kennett government, through the then Minister for Finance, the Honourable Roger Hallam, who was in charge of looking after Y2K matters, ensured that government departments had their computers meet Y2K compliance standards. I take comfort that the minority Bracks government will not need to enact the legislation, although it is important to have the bill passed in readiness.

Some people say civil liberties in Victoria have been put at risk by the actions of the government. In the past former Premier John Cain used the essential services legislation against dairy farmers. He abused the legislation — there is no better way to put it! Yet the

house is putting powerful legislation into the hands of a Premier who has been at the helm for only a couple of months — a person who can be swayed by the influences of the trade union movement. The Minister for Industrial Relations may shake her head, but she knows the Premier is a puppet of the trade union movement.

Hon. M. M. Gould interjected.

Hon. K. M. SMITH — What union do you represent? Every one of you opposite, including the Honourable Bob Smith, are or have been representatives of the trade unions. If you did not work for them, you at least are all puppets of the trade union movement. You know you can use your powers with the Premier. I do not really have much issue with matters pushed by Liberty Victoria, but because of my lack of trust of the Bracks government I am concerned about where the legislation can lead. I am sure Mr Forwood also does not trust everything Liberty Victoria pushes.

Nevertheless, technology is the reason the legislation is necessary. Imagine what our forefathers would have thought even 30 or 40 years ago had we started to talk about computers and the whole world crashing down because we were entering a new millennium! They would never have believed us. Our forefathers used horses and carts instead of cars; they had gas lighting, and there was no sign of the technology the world uses today.

It is interesting to reflect on the practices of 100 years ago and on the things that run our lives — even the fact that the Clerks sit in this house with the technology on their computers to link them to any part of the world, but which could come crashing down on 1 January next. I wonder whether the Department of Parliamentary Services lodged a report about its computers because I had to contact a number of manufacturers to discover whether the computer technology in my electorate office was Y2K compliant. Apparently the Clerks went to a lot of trouble to have their equipment made Y2K compliant.

The bill will be in place for about 18 months. It is important that in 2000 we consider what are now our concerns — such as the fact that the system could fall into a hole because of a malfunction of embedded chips in electronic equipment. If they fail and our computers are rendered useless, all sorts of problems could occur.

Australia is an advanced country. One wonders about the situation in places where computers are just being introduced. Some companies send obsolete equipment into countries that, unlike Victorians, are not smart enough to investigate whether the equipment is Y2K compliant.

Why is Victoria as well prepared as it appears to be? The former Kennett government put about $400 million into ensuring Victorian government departments were Y2K compliant. Up until about July Victorian governments were 98.36 per cent Y2K compliant. That is a magnificent effort. Victoria is leading Australia and Australia leads the world — which puts Victoria into a wonderful position not to have computer failures in its departments because of the Y2K bug.

Earlier Mr Hallam mentioned the quarterly reports that must be lodged. I look forward to debating during the committee stage the opposition's concerns about, particularly, inspectors. When will the inspectors be appointed? Who will they be? Will they have powers during the 18-month life of the legislation to enter workplaces and private homes, to wave around pieces of paper and have complete power? The police could be used, if necessary. What is wrong with the police force being able to look after the concerns of the government?

Why are inspectors necessary? Why do they need their extraordinary powers? Who will pay them? Will they be employees of the government? Will they be in employment after the legislation sunsets? Will their employment be only until June 2001 or will they continue in employment thereafter? Will the situation be similar to the engagement by the former Labor government of occupational health and safety inspectors after the legislation passed in 1985?

I am afraid there will be a queue out the front of Parliament House reaching back to Lygon Street and the Victorian Trades Hall Council of people who will be given jobs, not those seeking jobs. People appointed to those positions have to be able to act efficiently and courteously. Importantly, they will have to react on behalf of the government and take the appropriate actions where necessary if something really goes wrong. We cannot afford to have people who will abuse those powers. I look forward to the committee stage so I can ask some of those questions of the Leader of the Government.

I also have some concerns about section 85 and the way the government laughed at members of the previous government and made our lives miserable.

Hon. R. M. Hallam — They tried.

Hon. K. M. SMITH — They did make our lives miserable. But we will make their lives miserable as times goes on — they can rest assured of that!

This is not the first bill introduced by the Bracks Labor government that has a section 85 provision. When the Kennett coalition government was elected in 1993, some 130 new acts were proclaimed; in 1994, 131; in 1995, 107; in 1996, 84; in 1997, 110; in 1998, 104; and in the autumn session of 1999, 49 — a total of 705 acts of Parliament.

Hon. R. M. Hallam — How many with a section 85 statement?

Hon. K. M. SMITH — The Bracks opposition said it would repeal 200 acts because it did not like the section 85 statements. What has the Bracks Labor government done? Two of its first four bills have section 85 provisions. Government members have short memories. The one thing they have to remember when they speak in this house, or in the other house, is that their contributions are recorded in *Hansard*, they are on the Internet, and we know all about it. The opposition will keep reminding government members of all their promises.

Hon. R. M. Hallam — It is about 28 per cent.

Hon. K. M. SMITH — How will the government repeal 28 per cent of the previous government's legislation? That is the figure advised by my mathematical genius colleague the Honourable Roger Hallam. That will be recorded as well. The point is that 28 per cent of that legislation included section 85 statements and for good reason; otherwise it would not have been put in place. The government is up to 50 per cent so far. Government members should remember that. That is one I can work out. I actually did well at mathematics at school, but it was a long time ago. The opposition will be counting. The former government understood the reasons for section 85 provisions. If the government wants to put them in and there is a need for them, and the opposition can see there is good reason for them, they should go in. I am sure they will be included in legislation because the government will understand what they are all about as time goes on.

I support the bill. I am looking forward to the committee stage and some answers from the government, because it was obvious to me that the Premier was not prepared to answer some of the questions in the other house. The opposition looks forward to the government answering some of those questions.

The ACTING PRESIDENT (Hon. C. A. Strong) — Order! I am of the opinion that this bill requires to be passed by an absolute majority. I ask the Clerk to ring the bells.

Bells rung.

Members having assembled in chamber:

The ACTING PRESIDENT (Hon. C. A. Strong) — Order! In order to ascertain whether the required majority has been attained I ask those members in favour of the question to stand in their places.

Required number of members having risen:

Motion agreed to by absolute majority.

Read second time.

Committed.

Committee

Clause 1

Hon. BILL FORWOOD (Templestowe) — The opposition has taken the bill into committee specifically to get some answers to the questions about which it is concerned. Opposition members look forward to a sensible and productive process. Some matters should be placed on the record. I look forward to the minister indicating that she is prepared to use the power she has available to satisfy the opposition's concern.

Clause agreed to; clause 2 agreed to.

Clause 3

Hon. BILL FORWOOD (Templestowe) — Clause 3 is the definitions clause. Clause 3(1) contains a specific definition of 'essential services' that includes:

(a) transport;
(b) fuel (including gas);
(c) light;
(d) power;
(e) water;
(f) sewerage.

They are the sorts of utilities one would expect in a bill of this type. Paragraph (g) reads:

> a service (whether or not of a type similar to the foregoing) declared to be an essential service by the Governor in Council under sub-section (2);

Subsection (2) states:

> The Governor in Council, by order published in the *Government Gazette*, may declare a service to be an essential service …

I ask the minister to indicate what services she has in mind.

Hon. M. M. GOULD (Minister for Industrial Relations) — I am advised that under paragraph (g), which will allow the Governor in Council to declare any service an essential service, it may be necessary for food to be declared an essential service if food storage or distribution is significantly disrupted as to be unable to meet the needs of the community.

Hon. Bill Forwood — Are you limiting the clause to mean food only?

Hon. M. M. GOULD — As I indicated, I am advised that that is an example; it is not restricted to that. That is an example and I am advised that food, or the distribution thereof, might be declared an essential service.

Hon. R. M. HALLAM (Western) — If that is the case, the opposition would like a bit more than just a single example. If the government is talking about the specifics of the definition being expanded to a service declared to be an essential service, the opposition is entitled to something a bit more specific than a single example of what might constitute that service so declared to be essential by the Governor in Council.

Hon. M. M. GOULD (Minister for Industrial Relations) — On the advice I have received, food is the only one that has not been picked up in the catch-all clauses (a) to (g). At this point I can give the honourable member no advice beyond what I have given. That is the advice I have received.

Hon. R. M. HALLAM (Western) — Can we take it from what the Leader of the Government says that the government is not aware of any other essential service which is not covered under this definition specifically, other than food, and which is captured by subclause (1)(g)? Is the government telling us that at this stage it does not envisage that anything beyond food would be captured by the definition of that being declared to be an essential service under the Governor in Council?

Hon. M. M. GOULD (Minister for Industrial Relations) — I am advised that that is the case.

Hon. R. M. Hallam — Okay. That is a much better answer.

Hon. BILL FORWOOD (Templestowe) — If the intention is for it just to cover food, why did the government not just say 'food'?

Hon. M. M. GOULD (Minister for Industrial Relations) — As I indicated, it covers food and the distribution of it. That might cover a variety of distribution centres and trucks. It is the food and the distribution of food.

Hon. R. M. HALLAM (Western) — In that case the opposition would have settled for 'food' and 'the distribution of food'. Opposition members are trying to establish that this is not deemed to be a catch-all. Given our nervousness with the extraordinary powers of delegation and with issues that go to compensation and so on, this is quite a fundamental point. I want the government to be clear about what the opposition is asking. If the opposition is able to draw the conclusion that in the definition of an essential service under subclause (1)(g) the government means food or the distribution of food and envisages nothing that goes beyond that, I am happy to settle for that commitment.

Hon. M. M. GOULD (Minister for Industrial Relations) — With respect to food and its storage and distribution, because of the unpredictability with respect to Y2K, as the honourable member indicated in his contribution, the government is trying to ensure that it accommodates all emergencies that may arise.

Hon. BILL FORWOOD (Templestowe) — We are going around in circles. If subclause (1)(g) is purely designed to deal with food and food distribution and nothing else, then what is the concern about saying 'food' and 'food distribution' rather than having a catch-all that can mean anything at all? Subclause (2) states that the Governor in Council:

> … may declare a service to be an essential service for the purposes of this Act.

Is the minister able to satisfy us that she is talking only about food and food distribution?

Hon. M. M. GOULD (Minister for Industrial Relations) — The advice I have is that the catch-all phrase relates, as an example, to food and the distribution and storage of food. However, the government has a concern about the uncertainty that may occur as a result of any emergency that may arise as a result of Y2K. It wants to ensure that such an emergency is covered. There is the example of food, and there is an example of another essential service, the distribution of food. If those services are significantly disrupted the government has to ensure that it can meet the needs of the community.

Hon. BILL FORWOOD (Templestowe) — I will not go forever on this, but I will rephrase the question. If subclause (2) is designed to enable the government to have different categories of food and different categories of food distribution, I am happy. However, if it is saying that there is something else that might come into it that is not food, a category of food or a type of distribution for a category of food, but that it does not know what it is, then we are back to where we started, as the Leader of the National Party said.

Hon. R. M. HALLAM (Western) — In an effort to find a way through this issue I repeat the concern I expressed in the first case. Given that there is a catch-all under subclause (2) of the definitions clause, which from the opposition's perspective means that the Governor in Council may declare a service to be an essential service for the purposes of the act, that is an extraordinarily broad authority. The opposition is seeking from the government an idea of what the broad catch-all is designed to accommodate. If the Leader of the Government is able to say that at this stage the government knows of no other service that is likely to be caught other than food or food delivery, then I will settle for that. Perhaps that is the way through.

Hon. M. M. GOULD (Minister for Industrial Relations) — I thank the honourable member for his comments. I am advised that the government is aware of food and food distribution. Another example could be medicines in the pharmaceutical area. That is an area of concern. I am not aware of any others apart from those two.

Hon. BILL FORWOOD (Templestowe) — Thank you, Minister. I am grateful for that. Could you outline to the house the process by which the Governor in Council would make a decision under clause 3(2)?

Hon. M. M. GOULD (Minister for Industrial Relations) — I am advised that the responsible minister is the Premier. He would make an order, which would have to go through the normal process and be approved by the executive council.

Hon. K. M. SMITH (South Eastern) — Does that include any services provided by local government that might not be carried out by state government?

Hon. M. M. GOULD (Minister for Industrial Relations) — That may relate to issues raised by the Deputy Leader of the Opposition. Provisions concerning the Emergency Management Act would not be sunsetting. I will not go into that matter in too much detail as it is dealt with further on in the bill. In part that arrangement has arisen in response to what occurred after the Longford disaster. Once the fire was put out many councils believed the emergency was over, but the state still had to cope with the difficulty of the lack of gas. Many local council services ceased once the fire was out, but the emergency continued. The amendments to the Emergency Management Act do not sunset to ensure the problems that arose after the Longford incident do not arise again — in other words, to ensure councils can be called on to deliver service in an emergency.

Clause agreed to.

Clause 4

Hon. BILL FORWOOD (Templestowe) — Clause 4, division 1, concerns the proclamation that emergency provisions apply. As I understand it the bill is structured around the fact that, apart from part 3, the bill does not operate unless so proclaimed. Will the bill be proclaimed before 31 December?

Hon. M. M. GOULD (Minister for Industrial Relations) — No, it will not be. I am advised that a crisis has to occur for the act to come into being.

The CHAIRMAN — Order! The government has another member at the table. That is not within the rules of the house. If the minister wishes to have someone else at the table she must ask for leave to do so.

Hon. M. M. GOULD — I seek leave to have a member sit beside me.

Hon. Bill Forwood — I do not have a problem with that.

The CHAIRMAN — Leave is granted.

Hon. M. M. GOULD — The advice I am given is that the bill would not be proclaimed because the nature of the act is that it will come into being only once an event occurs.

Hon. BILL FORWOOD (Templestowe) — I am gratified at being assured the bill will not come into being beforehand. I mentioned in my contribution that the governor of the Reserve Bank said enough money will be available. I take it from what the minister is saying that if there were a rush on food the night before — say, because of people panicking that they will run out of ice-cream on 2 January — there is no way the government can act to prevent that. Clause 4 states that the provision will apply if it appears that an essential service is or is likely to be unable to meet the reasonable requirements of the community. Is the

minister definitely saying that cannot happen beforehand, even if people panic beforehand?

Hon. M. M. GOULD (Minister for Industrial Relations) — The advice I am given is that that is the case.

Hon. R. M. HALLAM (Western) — That raises a range of other issues regarding the process of appointing inspectors if the bill is not to be proclaimed before 31 December. I anticipated the bill would be proclaimed before 31 December.

Hon. Bill Forwood — We have an undertaking it will not be proclaimed.

Hon. R. M. HALLAM — That is so; we have an undertaking it will not be proclaimed. That raises the question of the time it would take to appoint inspectors if a proclamation were to be made. I am confused. The bill contains detailed provisions relating to the process by which inspectors are appointed and empowered. Is the minister asking us to understand that, should there be a need for the bill to be proclaimed, whether it be before 31 December or afterwards as a result of some occurrence, only then would inspectors be appointed under the act?

Hon. M. M. GOULD (Minister for Industrial Relations) — I am happy to discuss the question raised by the Leader of the National Party. Which people will be employed as inspectors will depend to a large extent on the nature of the emergency. The number of police to be involved and whether police ought to be inspectors has already been questioned. A limited number of police will be appointed as inspectors as police will be involved in their usual duties.

To give an example, if there were a gas or electricity emergency, Vencorp would be delegated the power to undertake the necessary management of the emergency under the close direction of the Premier. The enforcement of the rationing of resources would be staffed by the Office of Gas Safety or the Office of the Chief Electrical Inspector.

As the honourable member may know, there have been ongoing discussions with police and emergency services personnel, and a joint Y2K task force has been set up between the Department of Treasury and Finance and the Department of Premier and Cabinet to develop contingency plans regarding who would be required to become inspectors in any given emergency. Planning is in place to ensure inspectors are qualified within their respective inspection area.

It is expected the majority of inspectors will be appointed from the public sector and will be public sector employees with skills in those specific areas. However, I am also advised that the act will retain the flexibility to appoint people from outside — say, members of the fire brigade, for argument's sake.

A number of discussions have taken place. It is the intention that professional people working in an area that may experience an emergency — for example, in the gas industry, or Vencorp in the electricity industry — will be appointed inspectors.

Hon. R. M. HALLAM (Western) — That answers a few of the questions raised further down the track but, with respect, it does not answer the fundamental question I put in the first place. Will any inspectors be appointed in advance of the proclamation of the relevant part of the bill? The minister has talked about having appropriate people appointed. The opposition understands all that. The question was whether any of those people would be appointed in advance of the proclamation of that part of the bill.

Hon. M. M. GOULD (Minister for Industrial Relations) — As I have indicated, when the act is proclaimed the government will identify the appropriate people. When the act comes into being, inspectors will be designated and the act will pick them up as inspectors. As the honourable member understands, I have already given a response on what happens when the act comes into being. Work is being done to identify who will be needed in various areas — whether it is police, the fire brigade or representatives of the gas or electricity industries. They will be identified and when the act is proclaimed they will become inspectors in the appropriate area.

Hon. R. M. HALLAM (Western) — That complicates the matter even further. I am talking about the proclamation to which this part applies. Clause 4 states:

> If it appears to the Governor in Council that an essential service is or is likely to be unable to meet the reasonable requirements of the community because of the occurrence of a year 2000 event, the Governor in Council, by proclamation in the *Government Gazette*, may declare that this part is to apply.

I thought we gleaned from the minister's earlier answer that the proclamation of that part would not take place until it became clear that that part of the bill was required. It appears the minister is now putting something quite different to the committee. I thought her response to an earlier question was that the proposed legislation would sit in waiting in case it was needed. If that is a fair description of the way it will

work, I return to my original question. It is important to clarify what we are talking about and to ensure we understand what is happening here. Is the minister telling the committee that nothing will happen until it appears to the Governor in Council that the Essential Services Act is unable to meet the requirements of the Victorian community?

Hon. M. M. GOULD (Minister for Industrial Relations) — That is the case under clause 4(1). The bill provides for the occurrence of a year 2000 event. An event would need to occur in the year 2000 for the legislation to come into being.

Hon. R. M. HALLAM (Western) — Will the government appoint inspectors in anticipation of an event, even if such an event does not occur? If this is a reserve power and that reserve power is found not to be required, will we have any inspectors appointed under the legislation?

Hon. M. M. GOULD (Minister for Industrial Relations) — The government will not be appointing inspectors until the act comes into operation, and the act will come into operation only if there is an event. However, we will be identifying people within the state to ensure that if an event occurs there are people ready to become inspectors under the provisions of the legislation.

Hon. BILL FORWOOD (Templestowe) — Is the government now preparing identity cards, with photographs, for people who will become inspectors?

Hon. M. M. GOULD (Minister for Industrial Relations) — I am advised the answer is yes.

Hon. BILL FORWOOD (Templestowe) — Now the hole is getting deeper, or the circle is getting wider! The minister is now telling the committee that it has before it proposed legislation which the government will not proclaim, but it is already preparing identity cards, with photographs, for inspectors it will appoint. Will the minister table the list of inspectors the government intends to appoint?

Hon. T. C. THEOPHANOUS (Jika Jika) — My understanding of the way the legislation will work is that no inspector can be appointed until the legislation is proclaimed. That is the situation, and it has been made clear that no inspector will be appointed until the legislation is proclaimed.

It is not inappropriate, and it is not something that the previous government did not do on many occasions. I recall that when the former Minister for Finance was responsible for Workcover, particularly when he was appointing inspectors and various officers at the Victorian Workcover Authority, people were flagged in advance and considered for possible future appointments.

Hon. W. R. Baxter — But he had a proclaimed act to work under.

Hon. T. C. THEOPHANOUS — He did not have a proclaimed act for the changes he made. In many instances the preparations came into force before the legislation was even debated in this chamber; and when in opposition we raised that fact on a number of occasions when the Workcover authority did a similar thing. It is not inappropriate to identify the suitable people and set in place arrangements for future appointments but not make any appointments until the act is proclaimed. There is nothing sinister or problematic about that.

Hon. BILL FORWOOD (Templestowe) — I repeat my question to the minister.

Hon. M. M. GOULD (Minister for Industrial Relations) — I am advised a pro-forma kit is being produced. No names are being attached to the labels because, as I have indicated, we have not yet finally identified people who will be inspectors. The government is getting prepared so that if an event occurs in, say, 30 days time, on 1 January, the inspectors will have been identified. They have not been identified yet.

Hon. Bill Forwood — They have not yet been identified?

Hon. M. M. GOULD — We have not identified the individual inspectors. As I have said before, a committee of the Department of Premier and Cabinet and the Department of Treasury and Finance is working on identifying inspectors. The list is not exhaustive and we do not yet have the final list, but we are ensuring that if an event occurs within the next 30 days we are properly prepared with sufficient appropriate identity cards for all the inspectors. But no names have been attached to anything that has been prepared to date.

Hon. BILL FORWOOD (Templestowe) — I ask the minister: how many kits are being prepared and what are the categories of areas from which inspectors will be appointed?

Hon. M. M. GOULD (Minister for Industrial Relations) — I shall obtain advice on exactly where the process is at. As I have indicated to the committee, the government envisages that most of the inspectors would be appointed from specific areas such as gas and

electricity within the public sector. A few members of the police force may be identified as inspectors. However, the majority of the police would be needed to fulfil their normal duties; and, as I said, there may be an exception outside the public sector for fire brigades. The only other area is transport, which is now privatised transport. That is the information based on the advice I have been given.

Hon. BILL FORWOOD (Templestowe) — Let us try to get this clear. There will be categories of inspectors in each of the utilities. Does that mean there will be 1 for water, or 500 for water? Does it mean there will be water, electricity, gas, transport and sewerage inspectors and that is all, or will there be a whole lot of inspectors around the state ready to be appointed in the event of an occurrence, which will then trigger the proclamation of the legislation to start the process? I am trying to ascertain how this will work in practice.

Hon. M. M. GOULD (Minister for Industrial Relations) — The government does not have a specific number of inspectors in mind. It would depend on the magnitude of the event, and we do not know what sort of event it might be. I can tell Mr Forwood that if the electricity or gas supplies or the transport system totally shut down there will be sufficient inspectors to ensure the safety of the community, but at this point I cannot and will not say, for example, that there will be X number of inspectors dealing with transport, because it is just not practical or viable at this point to do so.

Hon. BILL FORWOOD (Templestowe) — I return to my original question: how many kits are being prepared, so that you will be ready?

Hon. M. M. GOULD (Minister for Industrial Relations) — I am advised one generic kit is being prepared at present.

Hon. B. C. BOARDMAN (Chelsea) — It seems the minister has obviously had preliminary discussions with the essential services that may be necessary if an event occurs. I ask the minister whether the government has received a briefing from the departments that have been identified as being appropriate in the advent of the legislation being proclaimed, and what resources those departments have indicated may be necessary if such an event occurs?

Hon. M. M. GOULD (Minister for Industrial Relations) — I am advised there have been no formal briefings; there have been ongoing discussions through the Department of Premier and Cabinet and the Department of Treasury and Finance committee or task force that has been established.

Clause agreed to.

Clause 5

Hon. BILL FORWOOD (Templestowe) — Clause 5 gives the minister powers in relation to essential services. As Mr Jennings and I discussed earlier, the government rightly described the clause as draconian. The clause is substantial, running to almost four pages. I can and am prepared to get down to specifics, but I ask the minister a general question: how does the government envisage that the clause will work? What will be in the directions? Are the directions part of the pro forma kit that we now discover is being prepared in the bowels of 1 Treasury Place by whomever is preparing them?

Hon. M. M. GOULD (Minister for Industrial Relations) — I am advised that what will happen will be similar to what happened under the former Treasurer after the Longford gas incident. Some directions were given and then Vencorp officers, the professionals skilled in the area, stepped in to ensure the safety of the community.

Hon. BILL FORWOOD (Templestowe) — Is there not a danger that a generic direction that could be cast widely and could provide for anything will come into effect on the day the section is proclaimed?

Hon. M. M. GOULD (Minister for Industrial Relations) — An event obviously has to occur. Based on the nature of the effect or effects of that event, the responsible minister — that is, the Premier — will give general directions and then call in people with the expertise, the skill and the knowledge to ensure that the community is safe and that whatever emergency action needs to be taken is taken to bring whatever event occurs under control.

Hon. BILL FORWOOD (Templestowe) — The point I am getting at is that the clause that you described as draconian is very broad. On behalf of all Victorians, we on this side would like to see it applied as narrowly as possible. The clause, which as I said goes to four pages, enables virtually anything to happen. The opposition is seeking an assurance from the government that the clause will be applied as narrowly and as specifically as possible.

Provision is also made for directions to be retrospectively amended. I take it that the purpose of that is to enable a wrongly applied broad power to be more narrowly applied?

Hon. M. M. GOULD (Minister for Industrial Relations) — The last comment is correct: the purpose of the retrospective amendments is to validate any action that may have been taken to ensure that it is narrow and within what is required once a clearer assessment of events is made. Mr Forwood will appreciate that if an event occurs the power will exist to give directions as part of an immediate reaction to it. The minister will also be provided with the power to give directions on what is anticipated to occur as a result of the event. After that, inspectors with the skill and expertise required will be in place to monitor what is happening and ensure the safety of the community.

Hon. Bill Forwood — Have any directions been drafted to date to cover any of the events that may occur?

Hon. M. M. GOULD — I am advised that there have not been. That is part of not knowing what the event may be.

Hon. R. M. HALLAM (Western) — The minister will understand our nervousness on the matter, given the extraordinarily broad definition of powers and given that the second-reading speech describes the powers as draconian. The minister will also understand why we are inviting the government to read down the powers captured in the clause. I will rephrase the question asked by Mr Forwood and offer the minister another chance to give us some of the solace we are looking for.

I refer the minister to clause 3(d). I remind the committee that the clause provides for a direction issued by the minister not only to be retrospective but also to apply to any part or the whole of Victoria, and the direction may be made in writing or orally. That is absolutely extraordinary. The responsible minister is being provided with an open cheque, as it were.

We are asking the government to read down the enormous parameters of the powers. I do not know what the government has in mind — I was not part of the drafting of the bill — but I would love to have on the record at least an indication of what the government has in mind. I have never come across such powers. They are unheard of.

Hon. M. M. GOULD (Minister for Industrial Relations) — As to the concern about oral directions, I am advised that they will have to be used sparingly because they are unenforceable, as Mr Hallam would appreciate. I am also advised that the provision for oral directions is necessary so that if an event occurs the responsible minister — namely, the Premier — can give such directions from wherever he happens to be at the time, with written directions to follow, to prevent an emergency from occurring.

Hon. BILL FORWOOD (Templestowe) — We have just established that the bill will be proclaimed by the Governor in Council. Now the minister is saying that the Premier will issue oral directions. Is the government anticipating a series of events, one after the other? I would have thought there was some capacity for the government to get it right.

Hon. M. M. GOULD (Minister for Industrial Relations) — We have gone through the provisions governing when the bill will be proclaimed and the procedure that will be followed. I thought I made that clear to the committee.

Hon. BILL FORWOOD (Templestowe) — The opposition wants to know how the clause will work in practice. If there is an event and the act has been proclaimed, what is the next step? Once it is proclaimed, a direction must be issued. One would presume that the two things would be simultaneous — that is, the government will not proclaim the act unless it has some directions.

Hon. M. M. GOULD (Minister for Industrial Relations) — I agree with your sequence.

Hon. BILL FORWOOD (Templestowe) — We have established that after the act is proclaimed some directions will be issued. The matter Mr Hallam and I are concerned about is this: if directions are to be given, why do we need to provide for them to be given orally? Why will they not be given in writing when the act is proclaimed?

Hon. M. M. GOULD (Minister for Industrial Relations) — Members of the committee know that the act will be proclaimed when there is an event. I assure the committee that the powers will be used sparingly to ensure the safety of the community. That is why the bill is before the committee.

Hon. N. B. LUCAS (Eumemmerring) — Can the minister give an example of when an oral instruction might be appropriate? I should have thought that usually the Premier would sign off something if he wished to implement some direction. Can the minister give the committee an example of the sort of circumstance that would necessitate an oral direction being given?

Hon. M. M. GOULD (Minister for Industrial Relations) — I am advised that, for example, a radio broadcast could instruct the community to go to a certain area or generally inform them of what has

transpired. It is designed to assist in advising members of the community of the state of events and of the action the government would like them to take, using today's technology.

Hon. N. B. LUCAS (Eumemmerring) — Given that there are sections in the bill about compensation, will the Leader of the Government advise the committee of the arrangements that are put in place to record the oral directions that are given, whether they be on the radio or in some other form. Obviously things can flow from any direction in terms of compensation.

Hon. M. M. GOULD (Minister for Industrial Relations) — Oral directions given over the radio will be recorded. If oral directions are given over the telephone, they will be noted and recorded.

Hon. N. B. Lucas — Have guidelines been put down to ensure that that is covered in each circumstance?

Hon. M. M. GOULD — Clause 5(4) states:

> A direction … must be published in the *Government Gazette* as soon as possible after it is made.

Clause agreed to.

Clause 6

Hon. BILL FORWOOD (Templestowe) — Clause 6 is the compensation clause. The opposition seeks some direction on the government's understanding of how the clause will work. If a person's equipment is requisitioned, will that person be compensated for the use of his or her equipment or premises or whatever? How will that work. In particular, the opposition is interested to hear the government's response to the following questions. Will people be paid if they drive the equipment themselves; will there be compensation for loss of earnings because the government has taken their equipment, which means they cannot use it themselves; and what about issues of public liability and damage. What does the government have in mind?

Hon. M. M. GOULD (Minister for Industrial Relations) — The compensation clause is intended to be conservative. I am advised that the right to compensation is confined to situations in which a person's property has been requisitioned and is used to connect, operate or maintain a service. The clause will enable the minister to provide unspecified compensation where a person's property has been used. I am advised that that would include a reasonable amount of compensation for the use of property — in the case of a vehicle or equipment, the cost of the fuel or parts associated with their use — and for any damage to property. I am also advised that compensation would be paid for earnings lost due to the property being used to comply with those directions.

Clause agreed to; clauses 7 to 12 agreed to.

Clause 13

Hon. BILL FORWOOD (Templestowe) — Clause 13 has already been covered in some detail. The opposition is concerned about the relationship between the clause and clause 30, which the committee will come to later. Clause 30, which provides for the delegation of powers and functions by the minister, states in part:

> The Minister may by instrument delegate to any person all or any of the Minister's powers …

Will the delegation clause be used in the appointment of inspectors?

Hon. M. M. GOULD (Minister for Industrial Relations) — As an example, the Premier may delegate powers to the Chief Electrical Inspector, who can then delegate to identify the inspectors who will be required to ensure safety. That power of delegation can be given.

Hon. BILL FORWOOD (Templestowe) — Clause 13(3) says that the identity card must be signed by the minister. Does the government intend that the minister will delegate the power to sign the identity card?

Hon. M. M. GOULD (Minister for Industrial Relations) — I am advised that that would be the case because the minister would be unable to sign all the identity cards. The government does not know what the events may be.

Hon. Bill Forwood — What is the point of having a clause that says the identity card must be signed by the minister if the government intends to delegate the power before it starts?

Hon. M. M. GOULD — The opportunity exists for that to be delegated. It may be delegated or it may not.

Hon. BILL FORWOOD (Templestowe) — I am reluctant to suggest that aspects of the bill are a fraud. The bill is being presented to Victorians as a responsible part of the contingency plan that will be operated by the Premier. The argument has been put that the bill will not be proclaimed until an event occurs. The opposition is now discovering that underneath the water the government's little feet are paddling flat out to get ready for those events and that

work is being done on who the inspectors may or may not be. Until now Victorians had some faith in the claim that the Premier would operate the bill on behalf of all the people.

The minister must sign the identity card? Excuse me! The Premier has the delegation power to end all delegation powers. The opposition now has no faith in the claim that the Premier will operate the bill. It seems he will use his delegation power to flick it down the line again and again until, in the minister's own words, those draconian powers are operated by anyone.

I think it is time that the minister gave some assurance to the Victorian people that that will not happen.

Hon. T. C. THEOPHANOUS (Jika Jika) — I do not know whether the honourable member has read the bill. It is true that clause 13 says that the identity card must be signed by the minister and that it must bear a photograph of the inspector. Clause 30 says that the minister may by instrument delegate to any person all or any of his powers and functions except — and it makes the point specific — this power of delegation. The honourable member claimed that the power would be delegated again and again down the line, but that is not possible. The minister is able to make a delegation to another person but that person is then unable to delegate that power further down the line.

It is totally appropriate to have a power of delegation. Is the honourable member seriously suggesting that in the event of a major catastrophe nothing could happen until such time as you could find the Premier and get him to personally sign a lot of papers? It is nonsense to make that suggestion.

It is appropriate for a power of delegation by the Premier to exist in the legislation and it applies to all the clauses, including the clause that is under consideration. There is no issue here in terms of either, firstly, the general power of the Premier to delegate, which is necessary because of when it is required, or secondly, because that delegation cannot be further delegated down the line, which was the honourable member's argument.

Hon. BILL FORWOOD (Templestowe) — I thank Mr Theophanous for confirming the great worry the opposition has about the bill. Does the Premier intend to delegate his power to one person only?

Hon. M. M. GOULD (Minister for Industrial Relations) — I am advised that would not be the case. As I indicated earlier, different events may occur and the Premier may delegate the power with respect to gas to a gas inspector, and/or he may delegate the power to an electricity inspector to sign the respective cards. The Premier could delegate to more than one person.

Hon. BILL FORWOOD (Templestowe) — Let me rephrase my question. Identity cards in the electricity industry are intended to be issued by the Chief Electrical Inspector — he will be the delegate and he will have the capacity to sign the identity cards — and he alone for that category of events that requires a delegation to a chief electrical inspector. I presume that likewise there will be one delegation in each of the gas, water and food sectors — that there will be one person and one person alone who will have the capacity to sign identity cards?

Hon. M. M. GOULD (Minister for Industrial Relations) — I believe that will be the case. The Premier would delegate his powers sparingly. The bill does not allow for that person to then substitute delegate those powers. It is a very tight rein.

Hon. BILL FORWOOD (Templestowe) — I am grateful to get the assurance that there will be a tight rein. I wonder if the minister could make available to the committee the names of the people who the government intends to delegate this power to, given that it has been established that there will be only a number of narrow categories.

Hon. M. M. GOULD (Minister for Industrial Relations) — As I have advised the committee already with respect to identifying specifically who would be in charge in various areas, those discussions and consultations are still proceeding through the task force established by the Department of Premier and Cabinet and the Department of Treasury and Finance. Those discussions have not been finalised and I am not in a position to adhere to the honourable member's request.

Hon. BILL FORWOOD (Templestowe) — If the Y2K problem is going to occur it will do so in its major manifestation on 31 December. The government has just admitted that it does not know who it intends to delegate the powers to if the sky falls in on that day. Given the work that has been undertaken in Victoria during the past two and a half years I would have thought the government would have some idea of to whom it intends to delegate the problem.

Hon. M. M. GOULD (Minister for Industrial Relations) — I have already advised the committee of an example of two areas where the delegation power may occur: the Chief Electrical Inspector and the inspector with respect to Vencorp, who would have the expertise and skill to deal with an emergency, if it should occur.

Clause agreed to.

Clause 14

Hon. BILL FORWOOD (Templestowe) — Earlier the minister suggested that police might also be employed as inspectors. I would have thought that the police had sufficient powers without being made inspectors under the bill. The clause says that an inspector may ask the police to help. Is it seriously suggested under this legislation that the government will also be giving police officers the powers of the bill?

Hon. M. M. GOULD (Minister for Industrial Relations) — The government does not expect many police officers to be made inspectors because they are going to be busy doing the jobs that sworn police officers would normally do, especially in the case of an emergency event as a result of Y2K.

Hon. K. M. SMITH (South Eastern) — Who will have the power of control, the police officer or the inspector?

Hon. M. M. GOULD (Minister for Industrial Relations) — The inspector would have seniority and the police officer would be there as a moderator for the inspector and the citizen.

Hon. B. C. BOARDMAN (Chelsea) — If there were a fire or emergency situation the police force is undoubtedly the senior force and would have control over all matters. Can the minister explain further?

Hon. T. C. THEOPHANOUS (Jika Jika) — The committee is not understanding the nature of the powers of the inspector — many of them are not normally exercised by the police. For example, the requisition of property is not a police power. If it were necessary such power would be applied in very limited circumstances. It would be unclear whether the police would have the power to simply requisition property. The inspector would have the power to requisition equipment and get the problem sorted out. The purpose of this clause is to fix up a particular problem, say, involving a gas service, where obviously the person who would have the most knowledge would be the gas inspector or somebody who knew something about the operation of the gas industry.

How would a police officer be able to identify what it was that caused an event in the gas industry? You would not expect the police to have that sort of expertise. If the situation that caused something to occur involved the gas industry the appropriate person to take charge of fixing the problem would have to be the gas inspector. For example, if a pipeline were to shut down. A police officer may know something about the technical way in which a pipeline operates, but I would have thought the appropriate person to take charge would be somebody who knew something about the operation of the pipeline and the associated electronic equipment connected to it. The person who would be best at providing direction in such a situation would be the inspector, but he would have to do so in cooperation with the police. That is why the clause says that the police force may assist.

Hon. K. M. SMITH (South Eastern) — Minister, is Mr Theophanous speaking on behalf of the government?

Hon. T. C. Theophanous — Everybody has a right to make a contribution during the committee stage.

Hon. K. M. SMITH — Minister, are you in charge of making statements on behalf of the government? Who will make statements for the government, Minister — you or Mr Theophanous?

Hon. M. M. GOULD (Minister for Industrial Relations) — The inspectors only have powers under the legislation. The police, as the opposition is aware, have powers outside that area. When it comes to resolving the situation the expertise of both will be used. They will both fall within the ambit of the bill, when it is enacted. As to fixing the problem and inspectors having access to the problem, they will work with the police to get access to people's properties, if need be, because of the responsibilities and powers of the police.

Clause agreed to; clauses 15 to 29 agreed to.

Clause 30

Hon. BILL FORWOOD (Templestowe) — I will not pursue this clause much further than I have done in relation to other clauses. The opposition is concerned about the application of the clause and looks for comfort from the minister that the delegation by the minister of the powers and functions will be used as sparingly as is appropriate in the circumstances so that there can be some narrowing of what are the most extraordinarily wide powers.

Hon. M. M. GOULD (Minister for Industrial Relations) — I am happy to give that assurance to the committee, as requested by the Deputy Leader of the Opposition.

Hon. P. A. KATSAMBANIS (Monash) — I do not want to labour the point made by Mr Forwood about

appropriate scrutiny of the bill by a scrutiny of acts and regulations committee (SARC), but it must be pointed out that the powers of that investigative committee include not only the power to scrutinise legislation brought before Parliament, but also powers regarding safeguarding and delegation by ministers for the scrutiny of regulations — that is, the second arm of the SARC.

Not only has the bill not been subjected to the appropriate scrutiny by the relevant investigative committee appointed by Parliament to scrutinise legislation, but unless the government acts to appoint a scrutiny committee for both legislation and regulations the exercise of the power will not be appropriately scrutinised when the regulation is enacted.

I call on the government to give an undertaking on the appointment of an appropriate committee to scrutinise not only legislation but also regulations in respect of a power which is extraordinarily wide.

Clause agreed to; clause 31 agreed to.

Clause 32

Hon. BILL FORWOOD (Templestowe) — I will not unnecessarily pursue this matter. Clauses 32 and 33 regard immunity from suit and limitation of jurisdiction of the Supreme Court. I look for an acknowledgment from the minister that it is an appropriate use of the power.

Hon. M. M. GOULD (Minister for Industrial Relations) — I think I gave that during the second-reading speech.

Clause agreed to; clause 33 agreed to.

Clause 34

Hon. BILL FORWOOD (Templestowe) — I have significant difficulty with this clause, which deals with amendments to the Emergency Management Act. The way I read the bill, I believe the clause would come into effect the day royal assent was given under clause 2, which deals with the commencement date, not on proclamation. It means we would be putting into the Emergency Management Act for all time at royal assent those clauses. Is that correct?

Hon. M. M. GOULD (Minister for Industrial Relations) — I am advised that that is correct.

Hon. BILL FORWOOD (Templestowe) — I follow the answer to the next stage. It does not expire when the rest of the bill goes out of operation on 30 June 2001. We are putting into the Emergency Management Act for all time a clause providing that the Governor in Council by order published in the *Government Gazette* may declare a service to be an essential service. The bill puts into the Emergency Management Act the ability for all time of the Governor in Council to declare anything to be an essential service. Is that correct?

Hon. M. M. GOULD (Minister for Industrial Relations) — I am advised that that is correct.

Hon. BILL FORWOOD (Templestowe) — Should I be concerned about that? I am looking for some assurance from the minister about the operation of the clause. The bill has a purpose and a reason. The opposition accepts and supports the bill, and is grateful for some of the explanations it has received about how the legislation will work. But it enables the Governor in Council for all time to declare anything to be an essential service under the Emergency Management Act, and everything in that act then takes effect.

I look for justification from the minister for doing that, to start with, and an assurance that the government will not use its power capriciously to make anything an essential service under the Emergency Management Act.

Hon. M. M. GOULD (Minister for Industrial Relations) — Earlier in the committee stage I gave the example of what happened with the Longford disaster when the Emergency Management Act came into operation. As I am sure most honourable members know, enormous difficulties arose when that tragedy occurred and services were mobilised to assist the community.

The interpretation of the Emergency Management Act was that once the fire was extinguished the emergency was over. But as opposition members will acknowledge, that was not the case. The amendment in the bill means the emergency would be declared by the Governor in Council. I gave two examples about what occurred and what would occur under the bill before the committee. That is why the bill will take effect. It is meant to cover all contingencies and emergencies.

Hon. BILL FORWOOD (Templestowe) — The effect of clause 34 is to insert into section 4(1) of the Emergency Management Act proposed paragraph (h), which adds to the definition of emergency and refers to a disruption to an essential service. In other words, it adds ‘essential service’ to the definitions in the Emergency Management Act. The legislation also refers to the Governor in Council. That means that for the purposes of the Emergency Management Act, the

Governor in Council will be able to declare anything an emergency forever or in perpetuity.

The Emergency Management Act and the powers that come into effect when an emergency is declared provide the government with the capacity in 10 years time to declare an emergency and then to bring into effect all the powers of the act. I seek from the minister an undertaking that that is the intention of the government.

Hon. M. M. GOULD (Minister for Industrial Relations) — The Emergency Management Act deals with the way an emergency or disaster is brought under control. It is not an enforcement act. It is fixing a problem. The Emergency Management Act is different from the bill now before the committee. The issues the opposition has identified are not included in the Emergency Management Act.

Hon. Bill Forwood — I know.

Hon. M. M. GOULD — Do you want them there?

Hon. BILL FORWOOD (Templestowe) — Once an emergency is declared, and that is being expanded to include anything the Governor in Council might decide, the act comes into effect. I know the act deals with emergencies. I am looking for an assurance from the minister that it will not be used capriciously. The opposition is looking for an undertaking that as long as the Labor government is in power the provision will not be used to cause something that is not a proper emergency to come under the provisions of the act and therefore cause great problems to Victorians.

Hon. M. M. GOULD (Minister for Industrial Relations) — I am happy to give such an assurance to the honourable member.

Clause agreed to; clause 35 agreed to.

Reported to house without amendment.

Report adopted.

Third reading

The PRESIDENT — Order! As I am of the opinion that the third reading requires an absolute majority of the whole of the numbers of members of the house I request the Clerk to ring the bells.

Bells rung.

Members having assembled in chamber:

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

Required number of members having risen:

Motion agreed to by absolute majority.

Read third time.

Remaining stages

Passed remaining stages.

CLERK

Retirement

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

> That on the eve of the retirement of Mr Allan Victor Bray from the offices of Clerk of the Parliaments and Clerk of the Legislative Council, this house places on record its high appreciation of the long and valuable services rendered by him to the Parliament and the state of Victoria during his 37 years of public service from 1962 to 1999, and acknowledges the ability and courtesy uniformly displayed by him in the discharge of his duties as Clerk of the Parliaments and Clerk of the Legislative Council and in the many other important offices held by him during his service as an officer of the Parliament of Victoria from 1964 to 1999.

I wish to put on the record the various positions the Clerk has had during his time serving the Parliament. Allan was appointed to the Local Government Department on 10 December 1962. He was appointed to the Legislative Assembly by the Governor in Council on 19 May 1964 and commenced duty on 22 June 1964. His appointments include: Assistant to the Serjeant-at-Arms in June 1964; Assistant Reader in February 1966; Clerk of the Papers, Assistant Clerk of Committees and joint secretary, Statute Law Revision Committee in March 1967; secretary of the Public Accounts Committee in August 1969; Reader in July 1974; secretary of the Road Safety Committee in 1975; and secretary of the Public Accounts Committee in November 1975. Allan was appointed Usher of the Black Rod of the Legislative Council on 8 November 1978; Clerk Assistant and Clerk of Committees on 15 September 1983; Clerk of the Legislative Council on 16 August 1988; and Clerk of the Parliaments on 3 August 1991. He has been the honorary secretary of the Commonwealth Parliamentary Association (Victoria branch) since July 1991.

On behalf of the government I wish Allan, the Clerk of the Parliaments and the Clerk of the Legislative Council, all the very best in his retirement. In my six

years as a member of this house Allan has always been very courteous and helpful to me, and particularly so in the past few weeks. I was saddened to read his letter to me indicating that he planned to retire on Friday of this week. I have spoken to Allan about the many interests and opportunities that he plans to undertake in his time as a retired member of the Victorian community. He believes he probably will not know where he ever found time to work such extraordinary hours in this chamber.

On behalf of the government, I wish Allan all the very best for a long and happy retirement.

Honourable Members — Hear, hear!

Hon. M. A. BIRRELL (East Yarra) — I never thought I would say these words.

Hon. Bill Forwood — Nor did Allan!

Hon. G. R. Craige — And he is waiting for them, too!

Hon. M. A. BIRRELL — But Allan Victor Bray is a great man. I am delighted to support the motion because everyone who has been in this chamber for a while knows how much service Allan has brought to the Parliament, to the Legislative Council, and, most importantly, to brand-new members of this place whose political parties normally throw them into the deep end and expect them to be members of Parliament from day one. It takes people with extraordinary professionalism like Allan Bray to gently guide and give assistance, a bit of an introduction and a very willing ear to honourable members. You find the door is always open when you are seeking to get in.

I pay tribute to Allan on behalf of honourable members who are not here, those who have retired but who have relied on him for impartial, frank and highly practical advice, particularly when they were new, and particularly when they were in trouble, when they just — to use the terminology — cocked up in the Parliament somehow or they did something they should not have done and tried to get advice from Allan along the way.

In 1983 when I was elected to this place Allan was the Usher of the Black Rod and was later that year, in an unusual step, promoted as the Clerk Assistant.

To the surprise of us all, Allan then went from being Clerk Assistant to Clerk, and the cavalcade occurred. It was some such appointment that occurred only a few years ago — I do not know whose appointment it was — that triggered the move of Bill, who was an excellent barman, from being in charge of the bar to running the car park. He was a genuinely good barman and that year won the Victorian cocktail-making championship. When someone here is promoted everyone moves up a step. So let us not overlook the significance of this day: when Allan goes everyone, regardless of suitability or talent, will move up the ladder! That does not apply, of course, to Wayne Tunnecliffe, and certainly not to Matthew Tricarico; there are always exceptions to the rule. However, there is an inevitability of events that comes with the retirement of a Clerk.

When I first came here the then Usher was of assistance to me, and I thank him for that. I remember many occasions on which I received his help when I was last in opposition. I remember in particular a debate on the Tobacco Bill, a bill I was particularly proud to deal with, when I messed up on an absolutely fundamental amendment. I knew I had messed it up. We were in committee — it is always tense in committee and it was an extraordinarily tense night — and I completely screwed up on the amendment because of the double negative nonsense that one goes through with amendments. I immediately went across to Allan and said, 'Ahem, no-one has noticed, but I have completely screwed up on the amendment'. Allan was able to carefully advise me in a completely proper manner how, about an hour into the debate, I could effectively backtrack right to where I was and get it back in without anyone knowing — and to this day they have not noticed. I appreciate the fact that we were able to use proper processes and inherited knowledge to work the processes of the Parliament well.

In 1988 Allan became Clerk of the Legislative Council. I agree with the comment of the Honourable Monica Gould — views I know would be shared by former members such as David White, Caroline Hogg and Evan Walker on her side, and Alan Hunt and Rob Knowles on my side — that since that moment we have been extremely well served by the Clerk of the Parliaments. He is totally professional, full of courtesy, has a remarkable degree of tolerance, gives a constant flow of advice and has the ability to adapt to circumstances.

The Legislative Council has been sometimes quiet and sometimes incredibly hostile, but throughout it all there has been a certainty. The beauty of the staff of this chamber — I distinguish this chamber politely in my comments — is that they have been able to maintain traditions — with the exception of the things they wear at the opening of Parliament — but not foolish traditions. That the traditions have been maintained but gradually changed over time means that the chamber is

a joy to work in and is a place where every member feels he or she has some rights and no-one feels left out of the game.

This is a historic moment. All honourable members thank Allan for his work. It is important for him to understand that this is an all-party recognition of his work and that it extends from generations well before ours. We welcome the fact that one of his roles was to ensure that he had great successors. A test of a good leader is whether he or she breeds up and encourages people to facilitate their taking over the role. It is also a test of a good President. In both senses we have been well served here. It would be tragic if we lost something in all this process — if we had one great Clerk, but then the whole thing fell into a heap. We will not have that situation. I welcome the fact that Wayne is taking over the job of Clerk and Matthew is taking over the job of assistant clerk. As a consequence, traditions will be kept in a more modern form and the collective wisdom and skills those people have will not be lost.

Opportunities will spin out of this for us all. It will mean that the best office in the building will be available for use. I suspect that at about midnight tonight, as Allan clears out the office — we have probably tipped Wayne off now — there will be an opportunity for us to get the office that Allan and all his mongrel predecessors have kept since the day Parliament was created. Sweeping opportunities will be provided.

I conclude by saying on behalf of the Liberal Party and the opposition, and as someone who has served in this place for a long time and relied on your advice for 17 years: thank you very much for what you have done.

Hon. R. M. HALLAM (Western) — I shall be brief, because much of what I would like to say has already been recorded. I commend the Leader of the Government on moving the motion. I wholeheartedly endorse both her comments and those of the Honourable Mark Birrell.

I have looked at Allan Bray's record of service to this place. It goes without saying that it has been quite magnificent. Allan was in place when I arrived here in 1985. He then had everything under control, as he does today. I have thought about the words I would use to describe Allan. It has already been noted that he has been courteous, professional and impartial. Perhaps it is not too flattering to Allan, but the thing I have appreciated more than anything else is the fact that he is absolutely and totally unflappable. It did not matter what took place in this chamber, in Parliament or in the province of the Commonwealth Parliamentary Association, Allan had it under control; it was simply a matter of course.

On the recent announcement of Allan's retirement I was pleased to drop him a note to say how much I have personally appreciated the guidance he has kindly afforded me. I know that guidance has been extended to every member of this chamber, as it should be.

The Honourable Mark Birrell talked about one test of success being succession planning. That is certainly the case. If Allan were looking for consolation — and I know he is not in this case — we expect his shoes will be well and truly filled by Wayne; and we pass on our congratulations to him. We also welcome Matthew's ascension and look forward to the protocols and procedures of this place going on as if Allan had organised it in advance.

I am delighted to have the chance to say on behalf of the National Party that we wish Allan a long, healthy and happy retirement.

Hon. B. W. BISHOP (North Western) — I, too, would like to support the motion. Unlike the Leader of the Opposition, I will not go into the confessional side of the process. Perhaps I could, but I will not. However, I am somewhat concerned about who will run the car park.

My situation is somewhat different from that of people who have spoken previously. Firstly, I would like to thank Allan for his many years of loyal service to Parliament. I have known Allan Bray for just over seven years. When I came here in 1992 I had plenty of questions for him and everyone else. He was particularly generous in the time he gave me. Later I became a temporary chairman. I received plenty of advice and assistance from the President, the Honourable Bruce Chamberlain, and the Deputy President at the time, the Honourable Peter Hall. I received just as much generous advice from Allan Bray — and I needed plenty of it! As the Honourable Roger Hallam has said, that advice was drawn from many years of experience, from coming through the ranks and operating right at the coalface of Parliament, whatever it was doing at the time.

Talking about offices, Allan Bray's office is next to the one I share with my colleagues Ron Best and Jeanette Powell. When Allan walks past my door in the morning we often share our thoughts: I wonder how late the house will sit tonight or how many days the house will sit this week.

Allan was always a fund of information. He generally knew what was going on. Every now and then we beat him, changing the rules and doing something else. Today in the committee stage of the bill before the house I said, 'I think we'll get a bit of this sitting of Parliament'. He said, 'Good luck to you. I'll be away'.

I thank those stepping up through the ranks for their assistance and wish them well as they move up due to Allan's departure. I thank you, Allan, for your assistance to me and others in the house. I wish you and your family all the best in the years of retirement ahead. I am sure you will be busy.

Hon. BILL FORWOOD (Templestowe) — I wish to add my few words of endorsement to the motion supporting the retirement of Allan Bray. I do not want to go over the ground already covered so adequately by others who have spoken on the motion.

Allan is only a young man. He has greyish hair underneath the wig, but he is a young man and he has many years ahead of him. He started in the days when the quill pen was still used, so he has seen technical change in his time. He is a young man who has been around for a long time. It is worth noting that we all get older but Allan has stayed the same — ever since I have been a member, anyway.

Allan is discreet. Some members have bounced their harebrained schemes off him. I know Mr Theophanous would fall into that category. I have to admit to being one of those who have had wonderful consultations with Allan — not only in his office but also in the car park, either in the morning when arriving or late at night — regarding some fleeting idea about something that may enhance the interests of the Parliament or of others. Allan has always had the extraordinary ability to suggest that the really harebrained ideas should stay where they are but to take the less harebrained ideas and turn them into functioning proposals. I have watched him do that to my proposals and to those of other people as well. It is a wonderful skill.

I am extraordinarily grateful not just for his skills and assistance but also for the friendship Allan has shown to me and to others in the years he has been here.

Hon. W. R. BAXTER (North Eastern) — As the longest currently serving member of the Commonwealth Parliamentary Association executive committee, having been there since 1979, I take the liberty of thanking Allan Bray for his service to the CPA. He has been honorary secretary since 1991 and served in a number of capacities before that. He has been instrumental in organising conferences such as the plenary conference in Victoria in 1998 and the forthcoming plenary conference scheduled for 2001 and between those dates myriad regional conferences and seminars.

On top of that he has given tremendous assistance to at least eight members per annum in arranging their study tours, giving them sound advice and ideas. The corollary of that is that he has the unpleasant duty of chasing up recalcitrant members who fail to submit their reports on time. I signal to any members falling into that category that they could make Allan's day by doing so before he departs.

Allan has been an outstanding servant of the Parliament and the Commonwealth Parliamentary Association. That ought to be noted in debate on the motion.

Hon. T. C. THEOPHANOUS (Jika Jika) — I want to say a few words about Allan Bray. Especially in the years I was Leader of the Opposition, there were many tasks I would not have been able to perform without the assistance of Allan. I am not sure how many motions I ran by Allan to which he kindly in his own way suggested modifications. Certainly there was a large number of motions. I am grateful to him for that assistance.

Having been one of those who undertook a study tour — and handed in a report, I hasten to add — I can say that the assistance Allan gave me and other members was fantastic. More than that, when visiting other Australian and overseas parliaments, it was incredible to realise how many people knew Allan.

Hon. M. A. Birrell — He was a great traveller.

Hon. T. C. THEOPHANOUS — I am glad you, not I, said that. Many people knew of the work he had done. He will certainly be missed by many people in the house. I put on record my thanks for the assistance he has given me over the years.

The PRESIDENT — Order! I happen to be the longest serving Presiding Officer in the parliaments of Australasia and the South Pacific and to know the Clerks of each of those parliaments personally. I want to make a couple of points.

Allan is regarded by his peers internationally as an outstanding Clerk. I do not make that point lightly; it is a matter of fact. His counsel is respected by people from across the spectrum of those parliaments, whether small Pacific Island parliaments, the parliaments of emerging nations or the other parliaments of Australasia. It is a great measure of anyone to be respected by your peers as a leader. The Honourable

Bill Baxter referred to his experience with the Commonwealth Parliamentary Association. On an international level, Allan enjoys great respect.

Personally I have valued and will continue to value Allan's friendship, his support to me as President and his wise counsel. Every now and then presidents get flights of fancy as well. On occasion I have had to moderate the approach I first thought of. I value his work.

Allan's legacy is the sheer professionalism of the team of the Legislative Council. It compares very favourably with that of any other parliament in the commonwealth, and I am familiar with them all. Members of that team do not get a basic qualification and sit on that. They are constantly developing their skills. Hence in information technology and other areas this team and the team to follow are up with the best. That is Allan's abiding legacy. I join in supporting the motion moved by the Leader of the Government.

I have received an advice note from the Clerk. As everyone would know, Clerks are meant to be seen but not heard, at least in the house. I advise members of the content of the note. There is no truth in the rumour that Allan will be returning as a car park attendant. The lock has already been changed on his office. Finally, Allan has asked me to pass on his many thanks for all of the kind words, and he extends his best wishes to you all. I ask honourable members to signify their assent by standing in their places.

Motion agreed to, honourable members showing unanimous agreement by standing in their places.

The PRESIDENT — Order! Hansard may not have recorded that the motion was passed with acclamation.

ADJOURNMENT

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

That the Council, at its rising, adjourn until Tuesday, 7 December.

Motion agreed to.

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

That the house do now adjourn.

Motion agreed to.

House adjourned 5.49 p.m. until Tuesday, 7 December.

MEMBERS INDEX