PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-FOURTH PARLIAMENT

FIRST SESSION

21 November 2000

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By authority of the Victorian Government Printer

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FIFTY-FOURTH PARLIAMENT — FIRST SESSION

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TUESDAY, 21 NOVEMBER 2000

Tuesday, 21 November 2000

The PRESIDENT (Hon. B. A. Chamberlain) took the chair at 2.04 p.m. and read the prayer.

PERSONAL EXPLANATION

Hon. J. M. MADDEN (Minister for Sport and Recreation) — Mr President, I desire to make a personal explanation. On the last day of sitting, in response to a question from the Honourable Neil Lucas I described a meeting with the Urban Land Corporation in plural form — that is, I used the words, 'those meetings'. On reviewing the *Hansard* proofs I made a correction of that record to reflect the actual events, thinking that the Hansard reporter had misheard my remarks.

During the adjournment debate of that night I responded to Mr Brideson's question stating quite clearly that I used the words 'the meeting' — that is, 'singular'. I have since been informed by the Editor of Debates that on the tape record of the proceedings I can be clearly heard stating the words, 'those meetings'.

I advise the house that my use of the plural word during question time was not accurate and that, in fact, I inadvertently misled the house by describing that single meeting in the plural form.

I apologise to the house for my inaccurate answer, Mr President, and thank you for your indulgence.

ROYAL ASSENT

Message read advising royal assent to:

Crimes (Amendment) Act
Electricity Industry Act
Electricity Industry Legislation (Miscellaneous Amendments) Act
Heritage (Amendment) Act
Petroleum Products (Terminal Gate Pricing) Act
Project Development and Construction Management (Amendment) Act
Public Lotteries Act
Statute Law Revision Act
Wrongs Amendment Act

QUESTIONS WITHOUT NOTICE

Electricity: Yallourn dispute

Hon. M. A. BIRRELL (East Yarra) — My question to the Minister for Industrial Relations concerns the Yallourn dispute. Will the state of Victoria seek to be represented before the next stages of the Australian Industrial Relations Commission hearing?

Hon. M. M. GOULD (Minister for Industrial Relations) — Conciliation has been undertaken in the past couple of weeks before Vice-President Ross. My understanding is that progress is being made in that matter in an attempt to reach a conciliated outcome and to avert arbitration.

That matter is before the commission, and that is where the government believes it should be. The government is encouraging the parties to continue the conciliation process, and it will continue to do so.

Energy Smart program

Hon. R. F. SMITH (Chelsea) — I ask the Minister for Energy and Resources what assistance the government is giving local government to improve the energy management of their operations and facilities?

Hon. C. C. BROAD (Minister for Energy and Resources) — Through the Energy Smart local government program the Bracks government's Sustainable Energy Authority offers assistance and advice to local government for the energy management of their own operations and facilities.

The first phase of a benchmarking study has been completed, which has resulted in energy benchmarks for local government offices, libraries, leisure centres, child-care centres and Meals on Wheels kitchens.

The 35 councils participating in the study have received a report detailing the energy performance of their sites and comparing those to like sites across the state.

The Municipal Energy Management Support program offers council officers the opportunity to be trained in some of the technical, strategic and administrative elements of energy management. That program involves officers from groups of councils coming together for a series of workshops.

In addition, the government's energy managers network involves local government offices and brings up for discussion a range of energy management issues.

The Energy Smart local government program also provides councils with access to ongoing energy management advice through the Sustainable Energy Authority participation on councils' internal energy management committees.

Those programs are examples of the Bracks government's commitment to enhancing the involvement of local government in strategic planning issues and encouraging development of integrated, regional greenhouse policy responses.

Electricity: Yallourn dispute

Hon. PHILIP DAVIS (Gippsland) — It took 11 days after the power blackouts for the Minister for Industrial Relations to meet with the organiser of the Latrobe Valley branch of the Construction, Forestry, Mining and Energy Union, Mr Luke Van Der Meulen. When will the minister further meet with the local unions and employers to resolve the threat to power supply?

Hon. M. M. GOULD (Minister for Industrial Relations) — As I have previously informed the house, I met with a delegation of electricity workers from the Latrobe Valley a week and a bit after the wildcat action that had taken place. I also advised the house that I met with the unions and the company during that period. But just because I answered honestly a question asked by Mr Hallam during the adjournment debate whether I had met with Mr Luke Van Der Meulen, the secretary of the sub-branch, does not mean I had not met with the secretary and members of the company to encourage them to reach a conciliated outcome rather than an arbitrated decision in the commission to resolve this ongoing dispute.

Rip Curl Pro and Sunsmart Classic

Hon. E. C. CARBINES (Geelong) — Given the Bracks government's commitment to major events for all of Victoria, will the Minister for Sport and Recreation inform the house what steps the government has taken to ensure Victoria remains Australia's major events capital?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — The Bracks government is committed to attracting and retaining major events.

The Rip Curl Pro and Sunsmart Classic has been held at Bells Beach for 37 years. It has grown from a local event of Victorian significance to the longest running professional world surfing championship event in existence. The growth of the event has mirrored the growth in Torquay of two of the world's largest surfing companies — Rip Curl and Quicksilver.

The event has been supported by the government to the extent of $50 000 per year for the last three years. It has been enhanced significantly by the addition of the Offshore festival — a particularly significant festival for young people on the Easter weekend, which also assists in ensuring the event's financial viability. The combined events are estimated to generate economic benefit of $3.7 million in the region and more than $6 million for the state.

As a result of the world professional surfers group reducing its world calendar from 12 events to 10 events per year and Australia being limited to a maximum of 2, the event was in danger of being lost interstate. This government has therefore decided to provide up to $260 000 a year for the next three years to ensure that the event is retained. This is yet another example of the Bracks government's commitment to attracting and maintaining our major events, ensuring we remain the events and sports capital of Australia.

Electricity: Yallourn dispute

Hon. R. M. HALLAM (Western) — I refer the Minister for Energy and Resources to AGL's application currently before the Regulator-General seeking permission to pass on to its customers $800 000 of additional costs incurred as a direct result of last summer's industrial disputation in the power industry.

Has the Victorian government conveyed, or is it intending to convey, a comment or opinion on AGL's application to any of the parties involved, either formally or informally, and, if so, what is the thrust of any such comment or opinion?

Hon. C. C. BROAD (Minister for Energy and Resources) — The Premier has indicated publicly that it is the government's view that this is not a matter which AGL should seek to pass on to customers. However, because the Office of the Regulator-General is considering the matter, it is important that that consideration is and is seen to be independent, and that the government is not seen to be intervening in that process. The government will not be intervening in that exercise; it will be a matter for the Regulator-General to determine.

It is clear under arrangements put in place by the previous government that AGL has the legal right to put forward its application to the Regulator-General. It is a matter about which the Regulator-General will make a decision. Three of the four other major retailers have stated they will not be making similar claims, even if they believe they are entitled to do so. Those three retailers are Powercor, United Energy and Citipower.

The government's view is that AGL should not pursue this matter. However, under arrangements entered into by the previous government, it has a legal right to do

so. It is exercising that legal right, and the Regulator-General will make a decision about it in due course.

Foundation for Sustainable Economic Development

Hon. G. D. ROMANES (Melbourne) — I ask the Minister for Industrial Relations: what action is the Bracks government taking to foster industrial partnerships between employers and unions to encourage innovation and excellence in Victorian businesses?

Hon. M. M. GOULD (Minister for Industrial Relations) — I recently had the pleasure of joining the Premier in officially launching a major new initiative — the Foundation for Sustainable Economic Development.

The foundation has been established through the support of the University of Melbourne with a significant contribution of $200 000 from the Bracks government for its first year of operation. The government sees the establishment of the foundation as a key vehicle to showcase to Victorian businesses, unions and the public ways in which we can embrace innovation never seen before.

Victoria can act as a magnet for investment through this enlightened approach. It is an opportunity for Victorian businesses to demonstrate how progressive and cooperative relations in the workplace and the implementation of cutting edge environmental systems can not only make for better working conditions and a natural environment but also enable robust companies to improve their profits.

The foundation, with broad representation from businesses, communities, unions, academia and the environmental movement, is set up to achieve this. The key role of the foundation will be to research and promote instances where progressive and cooperative workplace cultures have contributed to the economic competitiveness of companies, research innovation and sound ecological management as they affect a company's competitiveness and profitability. What they also do is distribute those findings to the industry and undertake research to ensure that all players in the industry are aware of those innovative ideas.

A host of overseas studies have clearly demonstrated that progressive and cooperative management strategies improve the profitability of companies and deliver tangible improvements. The studies have also shown that cooperative partnerships will also encourage companies to invest in Victoria; they also reduce staff turnover and provide higher returns and greater profits for companies. That translates directly into the bottom-line approach of ensuring that partnerships contribute not only to economic growth, but also employment arrangements and concerns about the environment. These overseas studies show the advantage of working cooperatively, unlike the Workplace Relations Act, which actually encourages conflict rather than — —

An opposition member interjected.

The PRESIDENT — Order!

Hon. M. M. GOULD — It is encouraging that the foundation will communicate its research findings to industries so they can benefit from them. Strong support for the foundation comes from the Australian Council of Trade Unions, the Australian Industry Group, and the Australian Quality Council — all representatives on the foundation with the University of Melbourne.

I take the opportunity to wish the foundation well with its mission of encouraging and supporting excellence in Victorian businesses.

Residential tenancies: renter information

Hon. BILL FORWOOD (Templestowe) — I refer the Minister for Consumer Affairs to her answer to Ms Romanes last Thursday during question time when she stated that the Victorian renters magazine was being mailed to registered landlords and registered renters. Is it not a fact that section 427 of the Residential Tenancy Act authority to record names makes it crystal clear that the only reason names and addresses are maintained by the authority is to ensure that bond money is paid out directly to the people who are entitled to it? Is it not a fact that you have improperly accessed the records of the Residential Tenancies Bond Authority and illegally used the data you obtained?

Hon. M. R. THOMSON (Minister for Consumer Affairs) — Part of the responsibility in administering the Residential Tenancies Act is to ensure that everyone has access to the rights and obligations document when they lease premises. On that basis the rights and obligation document, which landlords are supposed to hand to tenants, is included in the renters guide. The government is ensuring that everyone has a copy of their rights, entitlements and obligations as prescribed under the act.

RACV: Energy Breakthrough

Hon. KAYE DARVENIZA (Melbourne West) — Will the Minister for Energy and Resources inform the house of the Bracks government's support for encouraging energy efficient transport solutions?

Hon. C. C. BROAD (Minister for Energy and Resources) — Last Saturday I had the pleasure of representing the Premier at the 2000 Royal Automobile Club of Victoria Energy Breakthrough event in the rural city of Maryborough. It involved almost 5000 young people who considered environmental issues related to personal transport vehicles, most notably energy efficiency. An important objective of the event is that it encourages young people from the country and metropolitan schools to design innovative transport solutions that are environmentally and technologically sound and, importantly, energy efficient.

Hon. K. M. Smith — Who won all the races?

Hon. C. C. BROAD — I will get to that. Increasingly, RACV Energy Breakthrough is becoming an important part of the science, technology and environmental studies curriculum for many schools. That is being supported through the publication of the schools handbook, which provides advice on how schools can become involved in the energy breakthrough program.

The event is now in its 10th year and is an outstanding educational program proudly supported by the Bracks government, through the department of education in conjunction with the RACV, the Shire of Central Goldfields and the Society of Automotive Engineers. This year the event attracted a larger crowd than ever and apart from the almost 5000 students many proud parents, teachers and spectators attended. Also present were the hardworking honourable member for Ripon in another place, Joe Helper, and the Honourable John McQuilten, a member for Ballarat Province.

This year more than 190 entries participated in the RACV Energy Breakthrough in four categories. I am pleased to advise that the overall winner in the open section was Wonthaggi Secondary College with Open Wizard. The winner of the line honours was Bendigo Secondary College with its entry, Molten Chicken. The line honours winner completed 590 laps of the 1.3-kilometre course which was the equivalent of 767 kilometres over a period of 24 hours. That was quite an achievement. The success of and large crowds that attended this year's event demonstrate the increasing importance that parents, teachers and young people give to energy conservation issues. It gives the government great hope for the future in achieving good energy solutions.

Small business: advisory council

Hon. W. I. SMITH (Silvan) — Has the Minister for Small Business consulted with the Small Business Advisory Council on the financial impact on businesses of the new state industrial relations system?

Hon. M. R. THOMSON (Minister for Small Business) — The agenda items of the Small Business Advisory Council relate to long-term advisory issues and matters of concern to small business. The issues are not just discussed with me but with officers of other government departments. A number of the issues are ongoing and concern a range of matters with which small business has to deal.

Residential tenancies: renter information

Hon. JENNY MIKAKOS (Jika Jika) — Following the question asked by the Honourable Bill Forwood, will the Minister for Consumer Affairs outline to the house the initial public response to the recent publication of the Victorian renters magazine?

Hon. M. R. THOMSON (Minister for Consumer Affairs) — In the last week of October the renters magazine was delivered to more than 270 000 renting and landlord households across Victoria, and more than 1500 real estate agencies have also received bulk copies of the magazine. A brief survey form was included with each magazine and so far more than 2200 completed forms have been returned to Consumer and Business Affairs. Approximately 200 are received each day.

The return of the forms proves that it is most important to give information to people at the time they gain most benefit from it. An overwhelming 95 per cent of respondents indicated that they will keep the magazine for future reference because it contains information of value to them.

The call centre received an increase in the number of calls from both tenants and landlords checking on issues of concern such as termination, eviction, urgent and non-urgent repairs, rental bonds and how procedures work. It proves what the government has been saying for some time — that is, that it is important to make sure the information reaches the audience that needs it to ensure that appropriate decisions can be made before people find themselves in difficulty.

QUESTIONS ON NOTICE

Answer

Hon. M. T. LUCKINS (Waverley) — I refer to question on notice 841 to the Minister for Industrial Relations for the attention of the Minister for Health in the other place. I am yet to receive a response from the minister.

Hon. M. M. GOULD (Minister for Industrial Relations) — I do not recall that specific question on notice, because I have been ticking them off. I will endeavour to get an answer from the Minister for Health and if possible will provide the honourable member with an answer tomorrow.

BUSINESS OF THE HOUSE

Sessional orders

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

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

Motion agreed to.

PAPERS

Laid on table by Clerk:

Auditor-General — Report on Services for people with an intellectual disability, November 2000.

EcoRecycle Victoria — Report, 1999–2000.

Environment Protection Act 1970 — Order in Council of 14 November 2000 Variation to the Industrial Waste Management Policy (Control of Ozone-depleting Substances).

Members of Parliament (Register of Interests) Act 1978 — Cumulative Summary of Returns, September 2000.

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

Campaspe Planning Scheme — Amendment C8.

Casey Planning Scheme — Amendment C22.

Monash Planning Scheme.

Residential Tenancies Bond Authority — Minister for Consumer Affairs report of 21 November 2000 of failure to submit 1999–2000 report to her within the prescribed period and the reasons therefor.

Statutory Rules under the following Acts of Parliament:

Education Act 1958 — No. 111.

Health Act 1958 — No. 113.

Interactive Gaming (Player Protection) Act 1999 — No. 112.

Road Safety Act 1986 — No. 114.

COUNTRY FIRE AUTHORITY (AMENDMENT) BILL

Second reading

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

That this bill be now read a second time.

The purpose of this bill is to implement amendments to the Country Fire Authority Act 1958.

The Country Fire Authority is a statutory authority established by legislation, with provision for a board of management consisting of 12 members who are appointed by the Governor in Council.

The act precludes the chairman from undertaking any other paid employment, and currently the chairman also operates as the chief executive officer of the authority.

The remaining 11 members of the authority are appointed and paid as part-time members, and in a majority of cases are representative of organisations with an involvement in the functions of the Country Fire Authority.

In 1994 the Public Bodies Review Committee of the Parliament conducted an inquiry into the Metropolitan Fire Brigades Board. The committee recommended that the structure of that board be changed and in particular that the roles of president of the board and chief executive officer be separated. This recommended change was effected in 1997, with amendments to the Metropolitan Fire Brigades Act 1958. History has shown that the change has worked well.

The separation of these roles is essential in any organisation if openness and transparency in management are to be attained and appropriate checks and balances are to be assured within the corporate structure. This is of greatest importance at board level to prevent undue influence or concentration of power. The separation of the roles of chairman and chief executive officer avoids an excessive concentration of power in the hands of a single individual and strengthens the independence of the board. This is now

accepted as a principle of good corporate governance in Australia.

This bill now extends that principle to the Country Fire Authority. The restriction placed on the chairman from involvement in other employment will be removed, allowing for a part-time appointment and a full-time chief executive officer, with duties and responsibilities established in the act.

The chief executive officer will be appointed by the authority, subject to the approval of the minister. There is further provision for the appointment of an acting chief executive officer. The bill will also transfer some functions from the chairman to the chief executive officer to enable urgent decisions to be made without unnecessary delay.

To ensure probity within the authority, provisions requiring members to declare a conflict of interest or disqualify their participation in circumstances where a conflict may arise will be strengthened. This is also in line with current principles of good corporate governance.

I commend the bill to the house.

Debate adjourned on motion of Hon. B. C. BOARDMAN (Chelsea).

Debate adjourned until next day.

GAMBLING LEGISLATION (MISCELLANEOUS AMENDMENTS) BILL

Second reading

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

That this bill be now read a second time.

The government is pleased to announce this further step forward in the implementation of our gaming policies. This bill builds on steps already taken to introduce responsible gaming initiatives and objects into gaming legislation and establish new processes for community consultation and input into decisions of the Victorian Casino and Gaming Authority.

The government is committed to openness and accountability in regulation of the gaming industry. This bill will enable more information about gaming regulation to be made available to the community. It proposes a number of ways to inject openness and transparency into the decision-making processes of the Victorian Casino and Gaming Authority.

The authority will be required to conduct open hearings in relation to a range of matters. These hearings will allow the public to be present while submissions and evidence are taken from the parties, persons with a statutory right to be heard and witnesses required by the authority. The matters to be the subject of such hearings will include applications for venue operators' licences, premises approvals and bingo centre operator licences, 24-hour gaming issues and amendment of casino licence conditions. If there are special circumstances, the authority may hold all or part of the hearing in private. The authority will also retain the ability to hold open hearings on any matter.

Hon. C. A. Furletti — It states: 'any other matter'. I will take a point of order if the minister does not read it properly.

Hon. J. M. MADDEN — Any other matter. However, it may hear any matter in private if it involves the personal affairs of a person or because it is necessary in the public interest or in the interests of justice. These exceptions are consistent with Freedom of Information Act principles.

In addition, the authority will be required to conduct some of its business in open sessions where the public can witness the decision-making process.

The authority will also be required to provide written reasons for its decisions. Currently, a number of provisions of gaming legislation state that the authority is not required to give reasons for its decisions. These provisions are being replaced with requirements that the authority must provide written reasons for decisions both:

on request to a person whose interests are affected by an authority decision; and

in respect of every decision which was determined in public.

The reasons, however, must not disclose information about another person who is an associate or nominee.

The bill also relaxes unnecessarily restrictive secrecy provisions in gaming legislation. The Victorian Casino and Gaming Authority will be able to release a broad range of regulatory information. Examples of such information are:

the names of licensed persons and their associates

licence expiry dates

information that applications have been received from industry participants

applications which the authority has approved or refused

the results of disciplinary action and gambling expenditure data aggregated by local government area.

The authority will also be able to exchange information with other law enforcement and regulatory agencies, subject to safeguards designed to ensure that the provision of the information is appropriate.

Amendments to the Gaming Machine Control Act will ease the resource burden on applicants for gaming premises approvals. They will be able to have their applications determined prior to obtaining any necessary liquor licensing and planning approvals. This means that they will not have to spend time and money in pursuing those applications, without knowing whether they will ultimately succeed in being allowed to use their premises for gaming.

The bill also contains amendments to strengthen probity and enforcement provisions applying to the gaming industry, including —

providing for the authority, when it cancels a special employee's licence, to set a maximum four-year period during which that person must not apply for another gaming licence or permit;

requiring testers of gaming machines and software to be listed on the roll of suppliers, and requiring the licensing of testing staff;

requiring associates and nominees to provide updated personal information and creating an offence for those who provide false information;

allowing the authority to require associates of licensed persons to provide enforceable undertakings about their future conduct.

Two taxation amendments are made by the bill:

An amendment to the Gaming and Betting Act to increase from 20 per cent to 25 per cent the maximum rate of commission that may be deducted from the amounts invested in racing and sportsbetting totalisators. This will give Tabcorp the same commercial flexibility as the New South Wales TAB and enable it to pool funds with other Australian wagering operators.

In respect of totalisators for wagering events, the amount of commission that may be deducted in a financial year remains at 16 per cent.

In the case of sportsbetting, the current ceiling is 20 per cent. This amendment will raise it to 25 per cent.

The increase in the commission rate will allow Victorians to participate in national pools. This will have two advantages:

The larger pools will be more robust and will have a greater capacity to take larger bets.

This national pooling will also create the opportunity for larger prizes.

The second taxation amendment made by the bill is the removal of an ambiguity in the Interactive Gaming (Player Protection) Act, in relation to provisions about carrying forward tax losses.

Other miscellaneous amendments are made in relation to licensed persons to ease unnecessary administrative burdens without compromising probity standards or the integrity of gaming. These include:

extending the period for the lodging of appeals and objections from 14 to 28 days;

establishment of a system of licence endorsements to cover situations where a venue operator's licence may otherwise lapse. This amendment will enable a person other than the licensed venue operator to manage the gaming business. It will cover circumstances where, because the nature of the gaming business is essentially unchanged, it would be too onerous to require gaming to cease until a new licence is obtained. Examples of such circumstances are the death of a licence-holder or the changing of a club into an incorporated association. The authority will only be able to endorse a licence where it is satisfied that all associates are already currently approved by it;

new provisions relating to the authority's regulation of controlled contracts, that is, contracts with suppliers entered into by the casino operator. The authority will be able to tell Crown how Crown should choose its contractors, how it should go about making sure that the contractor is honest and not have criminal connections, and how Crown should administer each contract. The authority can audit Crown's process and decide which contracts it

wishes to investigate, instead of being required to approve each one beforehand. This amendment will reduce the administrative burden of investigating every controlled contract and allow the authority to focus its investigations as required. However, the authority will retain its powers to require termination of a controlled contract on public interest grounds.

The government is proud to introduce these amendments. They aim to ensure that the regulation of gaming continues in a way which applies rigorous probity standards without imposing undue burdens on participants in the industry.

In particular, the introduction of open hearings and public sessions for the Victorian Casino and Gaming Authority, the requirement for the authority to give reasons for decisions and the removal of unnecessary secrecy restraints will make openness and transparency key features of the gaming industry in this state.

I commend the bill to the house.

Debate adjourned for Hon. ANDREW BRIDESON (Waverley) on motion of Hon. Bill Forwood.

Debate adjourned until next day.

GAMING No. 2 (COMMUNITY BENEFIT) BILL

Second reading

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

That this bill be now read a second time.

This bill continues the government's commitment to the responsible regulation of gambling in the community interest, with a particular focus on community and charitable fundraising through minor gaming activities.

One of the issues raised in the responsible gambling consultation paper released early in 2000 was whether permit-holders using a common venue should be allowed to place their proceeds of bingo into a common pool. The operator's fees would be paid from the pool, with the balance being divided equitably. The purpose of such schemes is to enable all permit-holders playing bingo in the same place to receive some return.

There was some support for pooling schemes, and the government is aware that informal schemes have operated from time to time, although their legal status is unclear.

This bill provides:

For community and charitable organisations (other than those conducted for the purposes of a political party) to participate in pooling schemes.

Pooling schemes are only legal if they comply with the act.

There will be an auditable money trail, subject to the existing routine monitoring regime.

The pooling arrangements will be scrutinised by the Victorian Casino and Gaming Authority.

Information contained in bingo permit-holder returns has made the government aware that, in some cases, community or charitable organisations conducting sessions of bingo in bingo centres were obtaining minimal benefit from the proceeds of their sessions, while the centre operators were being paid 14 per cent of the turnover. In at least one case, the permit-holder indicated that it had lost money on the bingo games in the relevant period.

One way of addressing this issue is to make regulations to place the operators and permit-holders on the same basis of remuneration. However, advice available to the government indicated that the current regulation-making power is limited to remunerating operators on the basis of gross receipts. If this bill is passed, the government proposes to prepare regulations to split the proceeds of ticket sales, after the payment of prizes, between the permit-holder and the operator. Subject to the outcome of the regulatory consultation process, the government's favoured option is a fifty–fifty split.

A parallel regulation-making power is proposed for lucky envelopes. The favoured option is also a fifty–fifty split.

In the course of focusing on responsible gambling issues it has come to the government's attention that certain arcade games played by children in amusement centres may have compulsive characteristics when a cash prize is offered. Consistent with the government's decision to ban minors from having access to electronic gaming machines, we will ban cash prizes on amusement machines in amusement centres.

Bodies become eligible to participate in minor gaming by satisfying the Victorian Casino and Gaming Authority that they are genuine community or charitable organisations. However, the present act provides little guidance on the appropriate procedure for this gatekeeper role. This bill introduces a process

which clearly sets out the rights and obligations of organisations, including the manner in which the privilege of declaration can be removed.

The authority presently approves approximately 1000 such organisations each year. In this context, it is more appropriate for the Director of Gaming and Betting to make the initial decision, with the Victorian Casino and Gaming Authority acting as an appeal body in relation to refused applications and as a disciplinary body in relation to bodies which have been declared.

The authority will have the final say on the suitability of bodies to be declared as community or charitable organisations, subject only to an appeal to the Supreme Court.

Although the Gaming No. 2 Act provides for bingo centre operators to charge a fee for professionally conducting bingo on permit-holders' behalf, it requires the operator to obtain a separate licence (involving no greater probity assessment) to do so. This is an unnecessary licensing requirement, and the bill will remove the anomaly.

Experience from the ongoing monitoring of licensees has shown that it is no longer necessary to require employees to renew their licences every three years. Bingo employees will now be licensed for 10 years. This is consistent with amendments proposed for employees licensed under other gaming legislation.

The bill also contains amendments to strengthen probity and enforcement provisions applying to the gaming industry, including —

providing for the authority, when it cancels a bingo employee's licence, to set a maximum four-year period during which that person must not be issued with another gaming licence or permit;

requiring associates and nominees to provide updated personal information and creating an offence for those who provide false information;

allowing the authority to require associates of licensed persons to provide enforceable undertakings about their future conduct.

Consistent with proposed amendments to other gaming legislation, this bill also enables the authority to exchange information with other law enforcement and regulatory agencies, subject to safeguards designed to ensure that the provision of the information is appropriate.

The government is pleased to introduce these amendments. They offer the maximum opportunity for organisations with community or charitable purposes to benefit from conducting minor gaming activities. They continue the government's commitment to responsible gambling practices. Further, these amendments relieve licensees of certain unnecessary burdens while strengthening already rigorous probity standards.

I commend the bill to the house.

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

Debate adjourned until next day.

FAIR EMPLOYMENT BILL

Second reading

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

That this bill be now read a second time.

The Fair Employment Bill is the result of a comprehensive consultative process for the development of a fair system to govern Victorian workplaces not covered by federal awards or agreements.

The bill is an integral part of this government's commitment to fairness and equity and to restoring the balance in Victorian workplaces. It represents a significant turning point to redress the plight of the working poor in Victoria. It also signifies this government's commitments to improving the delivery of employment information and services for all Victorians.

The key elements of the new fair employment system maintain the current unitary system of industrial relations in Victoria for agreement making, unfair dismissals and freedom of association. It does, however, replace the unfair and inequitable schedule 1A safety net of five minimum conditions contained in the federal Workplace Relations Act for employees not covered by a federal award or agreement in Victoria.

This schedule 1A system applies to approximately 33 per cent of the Victorian work force — some 561 000 employees. Of these, some 205 000 are professionals and managerial employees who earn in excess of the minimum conditions and are largely regulated by common-law contracts of employment.

Of the rest — some 365 000 employees — it is estimated that two-thirds receive only the five minimum entitlements. These approximately 240 000 employees, or 14 per cent of the Victorian work force, will see an improvement in their conditions of employment. The others will receive formal protection for the entitlements they are already receiving.

Federal or Victorian regulation

Before turning to the key features of the bill, it is important to note the reasons why the government is introducing Victorian legislation rather than pursuing changes to the existing federal laws.

The policy of the Victorian government is to support a unitary approach to industrial relations in Victoria, but only if that system is fair and reasonable. In this light, discussions were held earlier this year with the commonwealth to discuss how the Victorian government's policy could be implemented with respect to schedule 1A workplaces. However, the commonwealth did not agree to proposals that, consistent with our policy, would have made the federal industrial relations system fair for Victorians.

Around the same time as those discussions the Growing Victoria Together summit unanimously recommended the establishment of an independent task force to review the current industrial relations framework that applies in Victoria and to report to the government on how to improve the system.

This independent task force with employer organisation, union and community representatives undertook an extensive and comprehensive review of Victoria's system of industrial relations. They assessed the adequacy of Victoria's laws, particularly in light of the social and economic effects of deregulation experienced since 1992.

The task force found that the industrial laws governing Victorian workplaces not bound by a federal award or agreement are inadequate and that since the deregulation of the industrial system in 1992 Victorian schedule 1A employees are subject to the least number and lowest level of entitlements of any industrial system in operation in Australia. Schedule 1A employees are also lower paid compared with the Australian average, and have been described as Victoria's working poor.

The task force found that in comparison to other states there was also no significant increase in jobs growth or a decrease in unemployment levels in Victoria since 1992 as a result of deregulation.

The majority of the task force concluded that the pursuit of further federal regulation was not a viable option at this point in time and accordingly, in the absence of a fair national system of workplace laws, the Victorian government should establish a fair employment system for Victorian workplaces not covered by a federal award or agreement.

It is significant that nothing has been done by the commonwealth to redress the significant disadvantage experienced by Victorian schedule 1A workers under the federal Workplace Relations Act since this system was introduced in 1996.

The task force further recommended that industrial relations developments at a national and state level should be closely monitored and that as far as possible there should be cooperation and harmonisation of commonwealth and state arrangements.

The government agrees with this view. The Victorian government will review its position if and when the commonwealth Parliament introduces a fairer and more equitable system of workplace laws which would apply to all Victorian workplaces and are consistent with the policies of this government.

I now turn to the key features of the Fair Employment Bill.

Objects of the bill

The principal object of the bill is to provide a framework for fair employment standards that supports both economic prosperity and social justice.

The legislation will achieve this through a number of key objects including promoting as far as possible consistency with the federal system but also through ensuring fairness and equity for those covered under the Victorian system.

Appropriate and fair employment standards for new industrial relations laws must be relevant for both today's and the future work force. The fair employment system has been developed to suit the needs of both employers and employees, to accommodate emerging trends in employment patterns and arrangements, and to balance both economic and social needs.

Who does the bill apply to?

The Fair Employment Bill will apply to persons whose wages and conditions are not covered by awards under the Workplace Relations Act. Particular minimum conditions of employment not provided under federal

awards, for example, long service leave entitlements, will apply.

Clothing outworkers and home-based clerical workers will also be covered as employees for the purposes of the Fair Employment Bill.

Many clothing outworkers are subjected to low wages, long hours of work, poor workplace health and safety practices, job and income precariousness and underpayment or non-payment of remuneration. The fact that many of these workers are living and working under Third World conditions in our own community cannot continue to be allowed.

The Fair Employment Bill represents part of this government's commitment to addressing the plight of outworkers in this state.

The Fair Employment Tribunal will also be given the jurisdiction to determine whether or not a class of persons working as contractors, would be more appropriately regarded as employees. An application can only be made to apply to natural persons who have consented in writing to the application and may not be made in respect of a person who earns remuneration over the indexed annual rate of remuneration of $71 200.

This will ensure that the declaration provision will operate in the manner that it was intended to apply to individual low-wage contractors such as cleaners, child-care workers and security guards. It has been designed to protect the low paid and vulnerable who have been forced, either directly or indirectly, to enter into contractual arrangements to perform work that has traditionally been undertaken by employees. It will prevent the undermining of the fair employment system.

Legislated minimum standards

The centrepiece of the new Fair Employment Bill is the introduction of a fairer system of employment conditions, which includes a new legislative safety net of standards for Victorian employees.

Victorian employees will be entitled to minimum standards of annual leave entitlements, personal leave (sick and carer's leave), bereavement leave, parental leave, long service leave, hours of work provisions, public holiday entitlements, clear definitions of employment categories, notice on termination of employment, and a general requirement to consult with employees over workplace changes which will impact on jobs and security of employment.

The Fair Employment Bill will contain simple but fair hours of work provisions for employees. Currently, there is no provision to regulate the hours of work for employees. Schedule 1A workers have no entitlement to even be paid for work in excess of 38 hours in a week.

This issue will be rectified in the Fair Employment Bill by setting a minimum standard for employees to work 38 hours per week averaged over a four-week period. Any variations to this, including the determination of appropriate forms of remuneration or compensation for work undertaken in excess of the minimum, are to be set and determined by the Fair Employment Tribunal on either an industry or occupational basis.

Simple but clear definitions will also be provided for the basis of engaging a full-time, a part-time and a casual employee. The Fair Employment Tribunal will have the capacity to vary or add to these definitions on an industry or occupational basis to take account of the variances in work across industries and businesses in Victoria.

Employees will be now able to access personal and bereavement leave. These provisions are consistent with minimum federal award standards. Eight days sick leave will be available. Employees will be able to access up to five days in each year of their accrued sick leave to care for a member of their immediate family or household in the event of illness. They will also have access to two days leave per occasion of bereavement. This is an important step which recognises the need for flexibility and protection for employees at these pivotal moments in family and community lives. These basic and fair employment entitlements have previously been denied to schedule 1A employees.

In recognition of the changing patterns of the work force and the high proportion of women in Victoria who work as casual employees, it is also proposed to give long-term casual employees access to unpaid carer's, bereavement and parental leave. A long-term casual is defined as a casual employee who has been employed for at least 12 months on a regular and systematic basis for a sequence of periods of employment.

These conditions will enable many casual employees to have a better balance between their work and family lives. It recognises that longer term casuals should not face discrimination because they are unavailable to work as a result of a bereavement or having to care for a family or household member who is ill.

This represents an important and progressive response to the changing nature of the work force, in particular by addressing the growth in the numbers of working women who are employed on a casual basis.

In addition, the Fair Employment Bill will clarify the rights of casual employees' entitlement to long service leave.

Industry sector conditions

In addition to the legislated minimum conditions, the Fair Employment Tribunal will be able to declare a condition of employment in relation to employment matters, including matters such as remuneration, allowances and related issues.

The existing 18 industry sector orders, which currently regulate minimum wages and work classifications for schedule 1A employees, will be maintained on an interim basis, and will form the regulatory basis for these conditions. The tribunal will then have the capacity to amend, vary or add to these sectors on an industry or occupational basis.

In considering whether to make an industry sector condition of employment, the tribunal must consider whether a federal award applies to the relevant employees. If there is a federal award that substantially governs the employment conditions of particular employees, the tribunal must exclude those persons from the application of the order unless it is satisfied that the exclusion would not be in the public interest.

In those cases where employees are covered by a limited or single issue federal award or agreement — for example, one that relates only to superannuation or to wage rates — the legislated minimum conditions and the industry sector conditions will apply where they are not inconsistent with federal conditions.

Employees who earn in excess of a designated amount of remuneration in each year — ineligible employees — will be excluded from the application of industry sector orders. The remuneration limit is linked to the annual remuneration cut-off rate for accessing a remedy for an unfair dismissal for a non-award employee under federal laws, which is currently $71 200.

The Fair Employment Tribunal

The Fair Employment Tribunal will be headed by a president and supported by vice-presidents and commissioners sufficient for the size of the jurisdiction and its workload. Requirements for appointment to the tribunal will be consistent with those for the Australian Industrial Relations Commission.

The bill also contains provisions to facilitate the dual appointment of tribunal members to both the Fair Employment Tribunal and the Australian Industrial Relations Commission.

The major functions of the tribunal are to administer the fair employment conditions; to settle workplace grievances and provide mediation for industrial disputes; and to provide a low-cost, efficient small claims jurisdiction.

The tribunal will also have a general educative role to promote the tribunal, its role and functions within the broader community. This will supplement, rather than replace, the educative role about the fair employment system provided by the information services agency.

Grievance resolution and mediation powers

The Fair Employment Tribunal will be provided with appropriate powers to ensure that employers and employees may obtain the prompt resolution of employment-related grievances. Grievances are generally required to relate to how the terms and conditions of employment under the act or an industry sector order apply to an employee.

Other employment-related grievances will also be able to be heard by the tribunal providing they are not trivial or against the public interest. The parties will be required to have made a genuine attempt to resolve the grievance themselves. Conciliation and mediation powers will then be exercised before any arbitral powers to resolve a grievance, unless the tribunal considers that this would not assist.

The Fair Employment Bill will also provide for a system of mediation or conciliation for industrial disputes.

Small claims jurisdiction

In addition to resolving workplace grievances, the Fair Employment Tribunal will provide a small claims jurisdiction for the non-provision of wages and conditions of employment, and will be able to provide monetary remedies up to a specified limit (currently $20 000). Independent contractors will also have access to this avenue of redress, to recover their contractual entitlements. This jurisdiction will provide an alternative mechanism to pursuing actions through the civil courts on these matters. It will be more accessible, low cost and focused on the resolution of the matters at hand.

Recovery of wages from principal contractors

Under the Fair Employment Bill, employees of contractors are able to recover unpaid wages and entitlements directly from the principal contractor where the contractor has not paid entitlements, unless the principal contractor has a written statement from the subcontractor that wages have been paid. The principal contractor may also withhold any payments due to the subcontractor under contract without penalty, until a guarantee has been received that wages have been paid.

This provides a simple procedure for employees to secure funds for work undertaken for a principal contractor.

Unfair contracts

An important mechanism included in the Fair Employment Bill is the ability of the tribunal to review a contract for services which is alleged to be unfair.

An unfair contract is defined as a contract that is harsh, unconscionable or unfair; is contrary to the public interest; or provides for remuneration less than the person would have been entitled to as an employee under the act, an industry sector order, or a federal award or agreement.

A contract may become unfair either at the time it was entered into, or at a later period of time. This will provide an avenue for redress for independent contractors whose contracts have become unfair because of the behaviour of the contractual parties or their agents, or because of outside factors. For instance, a contract may become unfair if external costs that impact on the provision of the contract for services increase and were not accounted for in the level of remuneration agreed to within the contract.

Compliance

One of the underlying themes of the new fair employment system is improved services and resources for Victorian employers and employees in the area of information and advice on their rights and entitlements.

Since the contracting-out of the Victorian industrial laws in 1996 to the commonwealth government, compliance resources for Victoria have effectively decreased by 25 per cent, with offices now available only in Melbourne, Geelong and Bendigo to service the needs of the entire state.

The new Information Services Agency will provide an invaluable service for the metropolitan, rural and regional areas of the state. This will be a particularly important service for small businesses and vulnerable employees, many of whom are not members of employer organisations or unions, and require information, advice and assistance on employment matters.

Recognition of organisations and right of access

Rather than replicate the registration provisions for employer and employee organisations that currently exist under the federal Workplace Relations Act, the Fair Employment Bill makes provision to simply recognise organisations that are registered under the federal act for the purposes of the fair employment system. A recognised organisation will be able to appear before the Fair Employment Tribunal in matters which affect their members or eligible members. In addition, it will provide the basis for an organisation having the right to enter a workplace based upon the eligibility rules of the federally registered organisation.

Authorised representatives of organisations are to have the same right of access into workplaces covered by the Fair Employment Bill as currently applies for those workplaces governed by federal awards and agreements under the Workplace Relations Act, except in cases where access to a workplace may be denied on religious grounds. In these instances, there must be at least 20 employees employed at a workplace who all hold a current exemption certificate on religious grounds. They must also be employed by an employer who also holds a current exemption certificate.

A certificate may be obtained from the Fair Employment Tribunal if the employees and the employer are practising members of a religious society or order whose doctrines or beliefs preclude membership of an organisation or body, other than the religious society or order of which they are a member.

Right of access for recognised organisations is given to inspect records with respect to compliance matters, or to converse with members or eligible members during their non-working time or meal breaks.

Summary

The Fair Employment Bill will provide for a system of fair employment standards, in particular for those Victorian employees not covered under a federal award or agreement. It will replace the current dual safety net of minimum wages and conditions that applies in Victoria that is unfair and inequitable for many low-paid and vulnerable workers.

These reforms will deliver on this government's commitments to look after the working poor in Victoria

and to provide legislation in the absence of a fair national system of workplace laws.

They also provide overdue protection for the most vulnerable of workers who have fallen totally through the cracks of federal regulation — outworkers and low-paid dependent contractors.

The fair employment system will provide for surety and business confidence by providing a fairer and more consistent safety net of minimum wages and conditions for all Victorian businesses.

It will also provide more certainty for the Victorian community by providing a stronger independent umpire — the Fair Employment Tribunal — to mediate industrial disputes.

I commend the bill to the house.

Debate adjourned on motion of Hon. M. A. BIRRELL (East Yarra).

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

That the debate be adjourned until the next day of meeting.

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

That 'the next day of meeting' be omitted with the view of inserting in place thereof 'Tuesday, 6 March 2001'.

Government members interjecting.

The PRESIDENT — Order! The Leader of the Opposition, without assistance!

Hon. M. A. BIRRELL — By its constant amendments to the bill the government is conceding that the proposed legislation is flawed, thereby reinforcing the view the Liberal Party announced some time ago that there is need for more consultation on it. My amendment is designed to ensure the opposition can facilitate public input and debate on a bill that many people, particularly small businesses, know very little or nothing about.

In seeking the adjournment of debate until the next sessional period I wish to provide an opportunity for the public to be able to comment either in favour or against the bill or, as is more likely, to offer suggestions for its amendment. The bill has printed at the foot of its first page that it was sent from the Legislative Assembly on 17 November 2000, but the bill is now substantially different to the one introduced into the other place; it had on its cover the fact that it was introduced on 27 October 2000.

Only this morning the government announced that it wished to move further substantial amendments to the bill. Very few people would have experienced the introduction of massive legislation only to see within two weeks two separate major series of amendments moved by its sponsors. The amendments to the bill are an indication of the need for consultation on it so there can be further opportunity for individuals, firms or organisations to comment on its contents.

Clearly, the Fair Employment Bill as introduced a few weeks ago in the other place is not the bill the government now wants to have passed. The bill introduced in the Legislative Assembly a few weeks ago was flawed and needed massive amendment. There is no better source for that than the ALP, which moved amendments to its own bill. Only a few weeks ago members were told by the spokespeople of the Labor Party that the bill was perfect. They said the bill resulted from exhaustive analysis and all the work that had been done with the allegedly independent task force. Their approach was confident, assertive and arrogant. What happened? As soon as those words were uttered by the ALP it brought in a swag of amendments to its own proposals. It confirmed through its actions the suspicions of most people who know anything about the bill — that is, in its current form it needs further work. Evidence of that is the way the ALP is trying to change it on the run.

The bill now before the house does not even contain the final amendments to be moved by the government; the government seems to have another set of amendments that it would like to introduce. In a breathtaking piece of logic, the government seeks not only to introduce sweeping amendments but also to have the house pass the bill today so it can be returned to the Legislative Assembly before that house rises for the year.

Hon. T. C. Theophanous interjected.

Hon. M. A. BIRRELL — Mr Theophanous, in one of his constant interjections, says, 'No, you can pass it tomorrow'. Let that be the voice of the government saying that it wants to move amendments that nobody has seen; it wants to have the bill pass within 24 hours so it can then be passed by the Legislative Assembly on the following day. The government is trying to pretend it is approaching the issue in a professional and proper manner, but its actions are unprofessional and improper.

The opposition does not know the contents of the government's proposed amendments because it has not seen them; most people in the community know nothing about them. But the opposition knows the

house is being subjected to amendments on the run. The proposal has not been properly thought through because the bill is changing every week it is before Parliament — not with amendments of the Liberal or National parties and certainly not with amendments moved by the Independents in the other place — who again have put up their hands in favour of the ALP — but with amendments of the ALP.

As further evidence of the woolly-minded approach of the government to the bill I note that only last week during a radio interview I was berated by the Minister for Industrial Relations for having 'got it wrong' on the issue of the planned rights of union organisers to enter the premises of small businesses and copy their private books. I was told during the radio interview, 'That is not right, the provisions are the same as the federal provisions'. How could that be, given the minister now wants to change her own bill so it becomes the same as the federal provisions? That answer is that what the minister told the media last week was false.

The opposition's comments to the media were true. Now a backflip has occurred, which of course is one of the many backflips that have occurred on the bill to date. Members of the opposition expect there will be many more backflips as people read the bill and go to the government. They will not be able to go to the minister because she will not meet them. They will go to the government's staff or the Premier's chief of staff and make it clear that their concerns about the bill should be addressed.

That is why more time for consultation on the bill is required. There was no consultation prior to its introduction, it has caused considerable community concern and, by the government's own admission, it is flawed. It is legitimate for this house to say, 'We have not seen the government's amendments so do not expect us to pass them in a day'. It is also legitimate for this house to say, 'Given the extent of the community's concern, what is the harm in consulting during the summer period, particularly over February when businesses will have time to turn their minds to matters other than, for example, the pre-Christmas rush?'.

The opposition wants to ensure that proper public debate takes place. I do not see why the government fears public debate. A number of organisations have pointed with concern to the haste behind the bill. They should be listened to. Regardless of whether the government agrees with all their views, they certainly have a powerful argument in saying more time is needed for consultation on the bill. The Victorian Employers Chamber of Commerce and Industry is one of those groups. In a press release of 23 October it states:

> The state government risks crippling many small businesses in Victoria by rushing into Parliament industrial relations law that will create a dual system of legislation.
>
> VECCI Group General Manager, Neil Coulson, says the government is acting with indecent haste to introduce laws that could fundamentally alter the way small business operates in Victoria.
>
> 'Why are they in such a hurry?', says Mr Coulson.

I also ask why the government is in such a hurry with its legislation and why it will not agree to consult on it.

The Victorian Farmers Federation (VFF) has also expressed publicly its concerns about the bill. In a summary of its response to the bill of 14 November 2000, it states:

> The Fair Employment Bill has been introduced into the Victorian Parliament. The VFF is concerned about a number of aspects of this legislation, including the haste with which this government appears to be pushing it through. Consultation with industry regarding the detailed issues raised by the bill has been grossly inadequate.

In a letter to me and others of 14 November the VFF elaborates on one of its concerns:

> In principle the previous government's decision to transfer the state's industrial relations powers to the commonwealth was a good one. The current government has legitimate concerns regarding the impact of this change on some low-income employees in Victoria. If there are problems in this area the appropriate way to address them is for the Victorian government to negotiate in a meaningful way with the commonwealth to revise the minimum conditions specified for Victoria in schedule 1A of the federal Workplace Relations Act.

It then went on to discuss aspects of the Fair Employment Bill and to reiterate its overall concern that more time is needed to discuss it. And what better time to do so than over the coming parliamentary break?

It is not just groups such as VECCI and the VFF that have expressed concerns. Others, for example the Restaurant and Catering Association of Victoria, a much smaller group that deals with small businesses that have not had a great deal of time to look at the bill, states in an undated document issued last week:

> The government is trying to push this legislation through without allowing the opportunity for everyone to fully understand the implications of the bill, and the economic study undertaken by the government has clearly not identified all of the possible impacts.

That comment by the association raises the important point that before legislation is passed its economic impacts must be known. Clearly to date people do not have a full understanding of those economic impacts.

Another group that has rallied to ensure that more time is available to deal with the bill is the Australian Retailers Association of Victoria. In a letter to the Premier of 13 November it states:

> The bill, if implemented, would cause severe difficulties to many small and particularly regional retailers. It will undoubtedly cause consideration of employment costs and inevitably cause unemployment in the retail industry. It fails to look at practical implications of the provisions and the impact on small business. It must be recognised that some small retailers do not earn as much as their employees!

That is the view of that association, which is concerned about job losses resulting from the bill. The opposition moved the amendment to ensure that the community has a full understanding of potential job losses, potential business closures and the potential costs to the economy.

Apart from its inherent bias and preconceived ideas, one of the flaws of the so-called independent industrial relations task force the government put in place was its failure to prepare an economic impact analysis as part of its report. The majority of that task force blindly and predictably recommended a range of proposals that the government then adopted. However, the task force failed to consider the economic impact before it went down its ideological path. I regard that shortcoming as a critical failure. The government then said it would undertake an economic impact analysis. However, that economic impact analysis has been universally attacked for its failure to examine the actual impact of the use of the proposed laws as against just the mere passage of the proposed laws.

All those reasons give the opposition cause to say that time is available and it should be taken to ensure that the bill is subject to consultation. It does not mean there will be a preconceived view on a number of issues. Indeed, after meeting members of the Textile, Clothing and Footwear Union in particular, members of the opposition were impressed by some of their comments about the need to move in respect of outworkers. The opposition will be receptive to that and will develop constructive ideas during the adjournment period.

There is another powerful reason for the community to reflect on some of the key provisions in the bill, even in its amended form and even though we do not know the form of the final bill because the government's amendments have not been published, and that is the full bench decision of the Queensland Industrial Relations Commission. It made a decision on 15 November this year in a major and coincidentally highly important case in relation to the Australian Workers Union in Queensland — —

Honourable members interjecting.

The PRESIDENT — Order! I ask the house to settle down. Each member of the house will have the opportunity to debate the motion and the amendment before the house. I ask honourable members to allow the Leader of the Opposition to continue.

Hon. M. A. BIRRELL — It was a coincidental hearing and a test case by the full bench of the commission into the use of parts of the Queensland act that deem a class of contractors to be employees. Some of the sections in the Queensland act are mirrored in the Victorian legislation. In a manner that should send a shudder through the ranks of the labour movement, if not the Labor government, the Queensland full bench held that shearers were not in fact employees but contractors. That meant the Australian Workers Union lost. Although some people will be happy and others will be disappointed about that outcome it casts into doubt the veracity of the proposed legislation that is allegedly based on parts of the Queensland act.

It casts them into doubt because the full bench decision says they do not mean what the Labor government of Queensland thought they meant. I would have thought that is another powerful reason to say, 'Hold on. Before we pass this law, can we in the light of a full bench decision in Queensland at least work out what the law means?'. I refer to the article on page 8 of the *Australian Financial Review* of 16 November headed 'Shearers deemed "contractors"', which is instructive but which is far from sufficient to help us analyse the implications of this for Victorian law.

Of course it is not just employer organisations asking questions about the bill, nor are there just the implications of interstate court decisions. A number of concerned individuals have approached the opposition about very specific areas of the bill. Members of the Exclusive Brethren, a group of decent, focused and well-meaning Victorians, are seeking to ensure that their conscientious objections are reflected in the bill. Members of the Exclusive Brethren have approached the government and the government has made some changes, which are in its first set of amendments made on the run, but they do not meet the concerns of the Exclusive Brethren. Indeed, they find the amendments very disappointing.

I am not yet sure what precise amendments should be moved to meet the conscientious objections of this group of decent people. What is clear is that in the time over the summer break we will be able to deal with their concerns to their satisfaction. At the very least we owe them the time to be able to do that.

The bottom line is that there is an overwhelming responsibility on parliamentarians before they pass massive legislation such as this, no matter whether in full or in an amended form, to ensure they know its implications.

Members of the opposition have received strong and sustained representations from individuals, regional businesses, strip shopping centres in the suburbs and peak associations saying they need more time to read the bill. There is an overwhelming feeling that they have not been able to analyse it. Indeed, the bulk of them did not even know that the so-called Fair Employment Bill existed, let alone have an understanding of its implications for them. It would be fair to say that most affected parties in this state do not know to this moment that the bill exists or that it could have a massive impact on them.

What impact, you might ask. The Victorian Employers Chamber of Commerce and Industry has estimated that 22 000 jobs could be at risk following the passage of the bill. The Australian Retailers Association has estimated that the cost of operating a business could rise by up to 25 per cent as a result of the passage of the bill.

We need to analyse their fears and concerns, just as we need to analyse the fears and concerns of those who support the bill. We need to balance them out. I do not believe Parliament will find that too challenging.

What is beyond doubt is that people who do not know about the bill and have not been consulted on it deserve to be heard.

In moving the amendment the opposition looks forward to debating the bill in full on the first Tuesday allowed for in the amended motion, rich in the knowledge that in parts of December and I hope all of February — a time when small business can really focus on a bill of this type — it will have been possible to ensure that the debate takes into account the interests of all, not just the interests of some.

Hon. M. M. GOULD (Minister for Industrial Relations) — I oppose the amendment moved by the opposition. The opposition is proposing a summer of uncertainty for employers and business. The Leader of the Opposition said there had been no consultation on the bill. Time and again I have advised the house of the extensive consultation the task force undertook — —

Honourable members interjecting.

Hon. M. M. GOULD — This piece of legislation is about fair employment for Victorian workers. It is about looking after vulnerable workers. It is about looking after workers who have been abused. It is about ensuring minimum terms and conditions for workers — something every member of this house benefits from daily as of right. It is about ensuring that we as a government and a community do not allow to continue the minimum conditions they have had to suffer because of the action of the opposition.

Members of the opposition are saying they want more consultation. What consultation did they have when they brought in the 1992 bill? They had no consultation!

Honourable members interjecting.

Hon. M. M. GOULD — They just ripped out of the hearts of Victorian workers their minimum terms and conditions. This opposition had absolutely no consultation with employer organisations, unions or the community. And its members have the audacity to get up here today and say, ‘We want more consultation’.

Honourable members interjecting.

Hon. M. M. GOULD — My office and the department have met with numerous employer organisations about the legislation. We sent copies of the bill to employer organisations and community leaders so that they could see the proposed legislation. When they have asked to meet with officers we have arranged those meetings. I even wrote to Dr Napthine and Mr Ryan asking them to contribute to the industrial relations task force. Did they? No. Did they even bother responding to the request? No. So when members of the opposition talk about consultation, the hypocrisy from that side of the house is evident. They have not consulted with anyone.

It is absolutely outrageous and hypocritical of the Leader of the Opposition to get up and say, ‘We want consultation’. This is a man who in the previous government had absolutely no consultation on an employment bill. His government just ripped the conditions out from under Victorian workers. The government has had discussions with community leaders and employer organisations, yet the opposition leader in this house says there are massive changes to the bill as a result of some amendments made in the Assembly.

I advised the house of a few of the changes the government proposed to insert after having had some discussions with employer organisations and the Exclusive Brethren. Those changes were made. The government clarified its intent — in line with what is written in other pieces of legislation and is understood in industrial relations — regarding contractors. The government restated the provisions using another set of words after explaining to employer organisations what they were about. So there was not a problem there.

We took out the provision covering the 17.5 per cent leave loading. That is of benefit to employers. We put it into the industry sector orders. We have had consultation with employer organisations. We have met with and even have a press release from the Master Builders Association of Victoria. Mr Welch, its executive director, said he could see no reason why the bill should not be passed without delay.

After discussions with the Housing Industry Association yesterday, we reached agreement on amendments I will be moving. Its press release states:

> The amendments are a victory for commonsense, and the Bracks government is to be congratulated on seeking the input of industry and responding positively to that input.

When has the opposition ever responded positively? Never. The Housing Industry Association says that it looks forward to this positive legislation.

As I indicated in the second-reading speech, the number of workers covered by the legislation, including outworkers, is about 13 per cent of the Victorian working population. The government is proposing to look after the people who do not get time off when a family member dies so they can attend his or her funeral. The government is seeking to look after workers who want to take time off to look after their sick kids. The opposition does not want that. It does not want employers to have access to information officers who could assist them with the terms and conditions applicable to their employees. Employers have advised the government they have nowhere to go to get that information. The bill will give employers the information that they want because most employers want to do the right thing. They want to pay the right wages and provide the appropriate terms and conditions, but they have nowhere to go.

Opposition members want to ensure that Victorian workers do not get the minimum standards that they and their friends receive. The people that the bill seeks to protect are not entitled to basic minimum conditions. The opposition is proposing a summer of uncertainty by delaying passage of the bill until next year.

I strongly oppose the amendment by the Leader of the Opposition and I urge all honourable members to support the government's proposal to debate the bill fairly and now.

Hon. W. R. BAXTER (North Eastern) — I support the amendment to the motion. If ever a case were advanced for giving more time for consultation on any legislation, this is surely it. The government and the Minister for Industrial Relations are conducting a dishonest campaign to have the bill passed by the house. How can this government hold itself up as being open, honest and accountable?

The Minister for Industrial Relations has often said that there has been consultation on the bill. She implied that the industrial relations task force made a unanimous recommendation, but it did not. On the major issues, as highlighted in chapter 12 of the report, Victorian employer members of the task force submitted an opposing minority report. How can the minister tell the public that there was unanimity?

The minister is drawing a long bow by saying that a bill containing 185 pages has emerged from an industrial relations task force report, one that is not unanimous, a few weeks after the report was presented to government. It beggars belief that anyone could have thought for one moment that in such a short time legislation of this magnitude and breadth could emerge. Of course it did not. The preparation of this legislation was well under way before the report was presented. The report was tabled as a means of justifying the government's intention.

The task force had meetings in country Victoria and presumably in metropolitan Melbourne and shop stewards organised stories to be put to the task force, but few employers spoke openly to it. Why? Because they did not want to be targeted by union thugs who identified at such public meetings employers who might have particular concerns that would put the spotlight on them. I reject entirely the notion that there was adequate consultation during the task force process. There was not, and it was not envisaged that legislation of this magnitude would emerge from that process.

The minister has told the house many times that this is absolutely perfect legislation and that Parliament should pass it quickly and with goodwill. Emotive language was used in the second-reading speech, in press releases and in dorothy dixer questions in the house simply to put across a story. If there is a problem with outworkers let it be addressed specifically and now. The government should not cloak the intention of the bill

with some story about it helping outworkers. Outworkers are mentioned only three times. The bill goes well beyond outworkers. Clearly the people who are likely to be affected need more time to consider or even become aware of what is in the bill.

To alert people about the bill and to seek feedback the National Party sent out 4500 letters and it is just beginning to get responses back. In the past few days I have received letters from a bus proprietor in Beechworth and a grape grower in Rutherglen. Recently a business operator in Halls Gap sent me a fax wanting to know what is in the bill: he asked for a chance to look at it. That man said that in his business he had a perfectly satisfactory arrangement with his employees, but what he is being told about the bill will interfere with the agreement he made in good faith with his employees. He said the so-called Fair Employment Tribunal will interfere with the negotiations he has had.

Mr Best and I met a hairdresser from Bendigo who gave us a graphic illustration how she and her work force of part-time people have come to a perfect accommodation about the hours and the times they work. She said that it suits everyone. She and her employees believe those satisfactory arrangements will be destroyed.

The bill is another indication that the government and Labor Party members generally believe all employers are unscrupulous and that they simply exploit their employees. It denies the situation in country Victoria where people live and work in the same town, shop in the same supermarket and many of them play in the same football team on Saturdays. They need to have an accommodating arrangement and generally they do. Those employers and employees are not happy having some outside body interfere with their arrangements.

Government members have made emotive allegations that employees routinely are denied leave in the event of a family bereavement. What a lot of rubbish! No examples have been provided. There have just been general allegations that that routinely occurs. It does not occur.

Honourable members are supposed to have before them perfect legislation that the Parliament should pass with confidence. But last week a raft of amendments were rushed into the other place. There was no opportunity to debate those amendments because of the peculiar way they do things in that house. The amendments were moved and passed by guillotine at 4 o'clock on Thursday afternoon without debate. The Minister for Industrial Relations provided me with a copy of the amendments beforehand and I appreciated that. I read today in the newspaper that the minister has a number of further amendments that she expects this house to deal with tomorrow. I have not seen those amendments. I should have thought if the minister were serious about wanting the house to pass the bill in an amended form at the government's behest tomorrow it would have been common courtesy to provide members of the National Party and presumably members of the Liberal Party with copies of what the government proposed.

Hon. R. M. Hallam — It would have been a good start!

Hon. W. R. BAXTER — Yes, it would have been. I say to the minister in passing that if she wants the cooperation of the National Party she should not set out deliberately to deceive the electors of this state as she did last Thursday by issuing a press release that did its best to indicate that the National Party was supporting the legislation and that somehow or other members of the National Party were happy to see it pass last Thursday.

If the minister had had regard to the speech of the Leader of the National Party in another place she would have noted that he made it perfectly clear that the National Party wanted more time for the people of Victoria, both employers and employees, to become aware of the provisions of the bill. That is why the National Party supported the reasoned amendment moved in the other place seeking more time. It clearly would have been inconsistent to call a division and vote against the second reading of the bill when what we were seeking was greater time for consultation. Nonetheless the minister attempted to deceive the electors of Victoria by somehow suggesting that the National Party was now supporting the legislation about which it had had great concern.

I advise the minister that I had prepared 439 amendments for the other place, of which I have a copy. It was decided that the National Party would not circulate them in the other place because there is no opportunity in that house to debate amendments because the guillotine falls at 4 o'clock and there is no committee stage of bills.

I give the minister notice that if the debate proceeds tomorrow I will have 439 amendments to move, and I will probably have more as I receive further advice. The minister is likely to be here for some time during the committee stage if she wants the debate to proceed tomorrow. It is not only unfair to Parliament but also and more importantly to the employers the proposed legislation will affect not to give them more opportunity to consider the bill.

It is all very well for the minister to read from press releases of the Housing Industry Association and the Master Builders Association saying that they are happy for the bill to proceed. They have been excised from the bill. Their influence on the government and the minister is such that they convinced her to completely remove them from the jurisdiction of the bill. That makes it all the more important for employers who are still covered by the bill to have a greater opportunity to examine it. Once they have become aware of how it will affect them, they too will be able to go to the minister and have her excise them from its jurisdiction. They must have that chance.

There is every justification for allowing more time for the bill to be considered. The people who will be most affected are only just becoming aware of its implications. If the government were honest and accountable and lived up to the charter signed by its Independent backers in another place members of the National Party would have no hesitation in providing the opportunity for the bill to pass.

Hon. G. W. JENNINGS (Melbourne) — I support the motion to bring on the debate at the earliest opportunity and oppose the amendment moved by the Leader of the Opposition.

Mr Baxter referred to those who will be most affected by the legislation. It is clear that those who will be most affected by the bill are the estimated 260 000 Victorian workers whose wages and conditions would be enhanced by its passage and the estimated 560 000 people who are covered by the bill in line with the policy the Victorian government took to the people at the last election when it promised to do something about the wages and conditions that apply to them. It was a clear promise the Labor Party took to the people at the last election.

The contrast between the government and the coalition could not be more stark than in their election promises and subsequent actions. The Labor Party took these undertakings to the Victorian people at the time of the election and it has followed up those undertakings with appropriate processes and legislation. On election day in 1992 the front pages of the Melbourne newspapers, circulated throughout Victoria, reported the then spokesperson on industrial relations and the then Leader of the Liberal Party denying their intention to introduce legislation to alter industrial relations in this state. Within days of being elected they had introduced and rammed through Parliament legislation that led to a substantial erosion of the wages and conditions of Victorian workingmen and women.

In 1997 legislation that handed over to the commonwealth responsibility for industrial relations and reduced the minimum standards Victorian workers was again rammed through the Victorian Parliament. The previous 20 minimum conditions were reduced to 5. There was no consultation process on legislation that led to the serious erosion of the wages and conditions of hundreds of thousands of Victorians.

When the Labor Party went to the people in September 1999 it gave a clear undertaking that its first order of business would be to seek reforms through the federal jurisdiction to provide for a unitary system that guaranteed Victorian workers minimum conditions equal to those in the rest of the country. At the end of 1999 and the beginning of 2000 the Minister for Industrial Relations made submissions to the commonwealth government on reforming the legislation to improve the minimum coverage and conditions for Victorian workers.

That proposal was rejected out of hand by the commonwealth government. There was no comeback from the commonwealth and no attempt to assist Victorian workers or to find out from Victorian workers or employers what they thought of the Victorian government's proposal — a government that had been elected only three months earlier and had a clear and current mandate to address the industrial relations climate in Victoria. Not only did it reject those proposals out of hand — —

Honourable members interjecting.

The PRESIDENT — Order! I ask honourable members to settle down and allow Mr Jennings to be heard.

Hon. G. W. JENNINGS — When I was listening to you bring the house to order, Mr President, the Minister for Industrial Relations reminded me that she met with her commonwealth counterpart on two separate occasions during the period to which I have referred with the intention of seeking reform to the commonwealth industrial relations system to elevate the wages, standards and conditions of Victorian workers, and those proposals were rejected out of hand.

Because it was not possible for the Victorian government to establish a unitary system that protected Victorian workers, it went to the second stage of its undertaking: to review industrial relations practices in this state. That led to the establishment of the industrial relations task force, which consulted on industrial relations practices in Victoria over a period of months

and conducted 11 consultations throughout Victoria, 5 of which were in rural and regional Victoria.

The government has clearly undertaken to consult widely. The task force distributed its material widely and there was a great deal of subsequent media exposure of the process and the issues. The task force, comprising both employer and community groups under the chair of Professor Ron McCallum, received 200 submissions. Professor McCallum, a man well respected in the Australian community for his expertise and his contribution to the legal profession, in particular to industrial relations, has been much maligned in this house.

In response to the extensive consultation undertaken and the submissions received, Professor McCallum and his task force provided the government with 100 recommendations in a substantive report which during the consultation process, before the material was published, was subject to much scrutiny in the house. From the beginning of the spring session, time and again honourable members from both sides of the house asked the minister about the progress of the consultation and the recommendations, and asked what issues were being distilled from those recommendations within legislation.

The minister was extremely generous in her answers in question time and on the adjournment debate. She was overly generous in her distribution of material. The minister has been subject to criticism for her generosity of spirit in distributing the material considered by the task force and the material distilled in the bill.

The bill was introduced into the Assembly on 25 October — four weeks ago. Since then the bill has been subject to wide media exposure and discussion in the community. Time and again the legislation has been subject to questions by opposition members in anticipation of the bill now before the house, which have been met with generous responses from the Minister for Industrial Relations in fulsome discussion of the intent, coverage and mechanisms of the bill. We find ourselves in the bizarre situation that many of the issues raised by opposition members through their questions and interjections paradoxically have been taken up by the minister in her recognition of the substantive issues that may be raised in Parliament and incorporated in the bill.

The paradox is that the minister has been criticised for taking up many of the issues that have been raised with the intent of satisfying the expectation of Parliament to dampen legitimate concerns of some Victorian workplaces, both in the scope and the intent of the bill, with the clear intention of the government satisfying Parliament's expectations of what is appropriate legislation. The minister has been pilloried for bending over backwards in an attempt to provide Parliament with a bill to satisfy the expectations of honourable members and Victorian employers, but at the same time meeting the expectations the government has consistently outlined for Victorian workers.

I support the motion of my ministerial colleague. I warn the house that if the amendment to defer debate on this bill is successful the clear message from the Parliament to Victorian families today will be that the Parliament wishes a sad and sorry Christmas to the 200 000 Victorian families whose wages and conditions are not being addressed — —

Honourable members interjecting.

The PRESIDENT — Order! The honourable member is capable of hearing one interjection — he does not need six!

Hon. G. W. JENNINGS — I repeat: the Parliament is wishing a sad and sorry Christmas on 200 000 Victorian families. Today the Parliament is saying that it does not consider their wages and conditions to be an urgent matter and it is happy to put them on hold. The reforms require the Victorian government to provide six months notice to the commonwealth of its intent to restore an industrial relations system in Victoria and to assume jurisdictional responsibility. It is clearly the hope of the government to provide that advice to the commonwealth at the earliest possible opportunity and in that way to provide a merry Christmas and some comfort to poor Victorian working families, many of whom live in rural and regional Victoria. Today the Parliament is denying the government the opportunity to provide that hope. I support the motion of the Leader of the Government.

Hon. G. B. ASHMAN (Koonung) — I support the amendment to adjourn debate until 6 March 2001. Given the nature of the bill and its history thus far, it is a sensible course to take.

The bill was read a second time in the Assembly on 26 October and the bill was not passed by that house until 16 November. It was not until that date that Parliament became aware of the 35 amendments that the government had added to the legislation. The 35 amendments were passed through the Assembly without consultation or debate.

Since the introduction of the bill in the other place the opposition has undertaken widespread consultation. It has met with employer groups and individual

employers. It has met with representatives from Trades Hall Council and with outworkers. It has cast the net as wide as it can and has obtained a range of different opinions on the proposed legislation.

What has occurred today almost negates the consultative process undertaken by opposition members. Today we are told this is a new bill with 35 amendments that went through the Assembly, and an unknown number of amendments are to be introduced in this place. The first indication of further amendments to be introduced to the house was in this morning's press. I understand the minister wrote to the Leader of the Opposition today indicating four or five areas of significant change, but we do not know what those changes will be except in the broadest context. The bill is now 188 pages long, but it may be reduced to 20 pages, or it may blow out to 250 pages. We do not know; we have had no indication.

I challenge the minister here and now to advise the house that she will circulate the amendments to all interested parties before the bill is debated further. As I said, although opposition members have a broad outline of the bill, it is the detail that is important — and that is very likely to be where the devil lies.

The opposition believes it will need to go back with the new bill and consult all the groups it has thus far consulted with on the legislation. A number of the groups that have been consulted have now indicated, according to the minister, support for the bill. On what grounds do they now offer their support? Is it because they have each had 4 or 5 hours intensive consultation with the minister and her advisers? Does it mean that overnight the minister will have another 4 or 5 hours consultation with another group and come back with another set of amendments? Where will it stop and when will there be a clean bill to consider?

Much has been said about the report of the independent industrial relations task force. When one analyses the brief of the task force one sees that the terms of reference dealt with the processes to implement the ALP election policy. The task force inquiry was not broad ranging; it had a very specific brief. There is no question that it was guided, and the government cannot expect industry and business to go along to meetings of a task force with that form of brief. It did not have an opportunity to expand the terms of reference and examine the industrial relations system in this state in total. It was confined to the ALP election policy.

The National Institute of Economic and Industry Research paper has been tabled in the house, and the government is hanging its hat on its findings and recommendations. I remind the house that the opposition had to drag the report out of the minister and have it put into the public arena. People to whom I have shown the report strongly question its findings and some of the basic research undertaken to support them. The opposition wants more time — the business community wants a great deal more time! We all want time to evaluate the report and the outcomes it predicts.

The task force did not generate widespread debate; the debate and discussion was narrow. The small business community does not respond well to that form of inquiry. The experience of many in the small business community during the 1980s is such that they now want nothing to do with an inquiry by the Labor government — they do not trust it. I can recall that during my time with the former state Chamber of Commerce and Industry, having made submissions on Workcover and occupational health and safety inquiries many small businesses came back to the chamber afterwards saying they were being picked off by the union movement and subjected to significant intimidation.

The opposition needs time to get out into the broad community and consult on the bill. By way of example I will outline a couple of incidents I experienced locally in the past week. While visiting a sandwich shop near my office to get some lunch I asked whether the shop owner was aware of the legislation. Clearly the shop owner had no knowledge of it and is now quite concerned. I went a little further along the shopping strip and talked to the vacuum cleaner shop owner — once again, the owner had no knowledge of the bill. Real estate agents tell me they have no knowledge of the legislation. Similarly local funeral directors tell me they have no knowledge of it. People from car yards and hire car companies tell me they have no knowledge of it, either. They are all saying, 'Why don't we know about this?'. Many of them have not received newsletters from their trade organisation in the past two to three weeks. I have no doubt that when the newsletters go out the people will become more aware of the impending legislation.

The knowledge of the bill has been confined to major organisations. The Australian Retail Association, the Australian Industry Group and the Victorian Employers Chamber of Commerce and Industry all still have serious concerns and problems with the bill and want more time to consult not only with opposition and government members but also with their members.

The government's target implementation date for the bill is 1 July. If the bill is debated in March there is no reason the 1 July implementation date cannot be

achieved. The government could plan and would have three to four clear months in which to put the legislation in place.

The suggestions that this will impact on people over Christmas is absolute and utter nonsense. That is clearly demonstrated by the 1 July implementation date. Debate on the bill should be adjourned until 6 March.

Hon. R. F. SMITH (Chelsea) — I speak in support of the proposal by the Leader of the Government to oppose the opposition's amendment. The reason I do so is that the Bracks government is desperate to address the current problems that exist in industrial relations in this state for hundreds of thousands of people — people whom members opposite clearly do not care about.

Honourable members interjecting.

Hon. R. F. SMITH — Over the past 13 months Mr Baxter has constantly suggested that the government or the unions assume that all workers hate their bosses and that all employers are supposedly evil. The government does not believe that at all. However, a number of employers in this state do not believe in fairness and equity and demonstrate that day in and day out in the workplace by exploiting ordinary working people to the nth degree. The government wants to stop that. To those opposite I say, 'Shame on you!', because they should want to do exactly the same thing.

In his speech Mr Baxter did not give one example of the sorts of things being complained about with the current system. I shall give a personal example. As a student my daughter worked part time on the weekend — as students do — in a pharmacy in Frankston. Her employer considered her a very good employee and regularly commended her on her performance and enthusiasm, et cetera. Then she was confronted with the infamous individual contract and told, 'Take it or leave it. It is only $75 a weekend less than what you are currently paid, but you don't have to take it; you can go'. Her pay would have been $75 less — penalty rates and the whole damn bit were gone. As all children should, and to her credit, she went to her parents for advice. Who better to come to for advice on industrial relations than moi? She had two choices.

She could accept the reduction in her pay and conditions as a fact and as a result of the current system or she could accept that she was being exploited and do something about it — namely, to tell the boss he could shove it. To her everlasting credit she told the boss he could shove it. Fortunately she was able to find alternative employment with reasonable pay and conditions relatively quickly, but I express this concern: what about all the other men and women and young people who did not have the choice or the ability to say no or tell the boss to shove it? They just had to take it.

I understand that the conservatives opposite want to maintain the current system because it is in their interest. The employers support the current system and want the status quo, and members opposite are here doing their jobs representing them. However, Labor members represent ordinary working men and women and they want fairness and justice for them. It is shameful to continue to delay the bill. Why delay the bill? Obviously the longer members opposite can delay this sort of legislation, the more profits will be returned to them and the people they represent. That is understood, but they should at least be honest and up front about it.

What are some of the problems that ordinary people like outworkers and contractors face? Members opposite should try getting a bank or car loan when they do not have permanent employment. They might think that is a fair or reasonable situation and bad luck, but government members do not think that. One reason why the government wants to have this bill debated and passed as soon as possible is so that Victoria can have a fairer and more equitable society.

For the life of me, I do not understand why members of this house or the other place are so paranoid about the union movement. I refer again to a major employer in Geelong, Alcoa. For many years in the late 1970s and early 1980s Alcoa struggled to be competitive. It was losing global share and was under enormous pressure to restructure or go under. What did it do?

Hon. G. R. Craige — They came to moi?

Hon. R. F. SMITH — It came to moi. What was the end result? After two or three years of educating workers, of negotiation, consultation and debating changes in the workplace we achieved significant workplace reform to the point where the current Prime Minister visited that site and instructed a number of his colleagues from Canberra to visit it. The then Premier of Victoria, Jeff Kennett, visited the site and sent a number of Liberal parliamentarians, and I assume some National Party members — —

Hon. B. C. Boardman — Were you there to greet him?

Hon. R. F. SMITH — I was. Why did they go there? They went to see what could be done through cooperation, where workers, unions and employers worked together — something members opposite do

not understand, but I am trying to enlighten them. The result was that after three years that plant went from no. 29 in the global network of Alcoa in terms of efficiency, productivity, unit labour costs, et cetera, to no. 2. There was no new investment in plant or equipment or anything like that, just attitudinal change, better work practices and different training methods. It was enormously successful. We believe that can happen for all workers regardless of industry.

I have been made aware that time is of the essence. I intend to keep my powder dry for most of the target group until next year. It is shameful for the opposition to oppose the motion moved by the minister. I commend the motion to the house.

House divided on omission (members in favour vote no):

Ayes, 14

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

Noes, 29

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

Omission agreed to.

Insertion agreed to.

Amended motion agreed to and debate adjourned until Tuesday, 6 March 2001.

NURSES (AMENDMENT) BILL

Second reading

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

That this bill be now read a second time.

The Nurses Act 1993 provides an effective legislative framework for regulation of nurses.

The purpose of this amendment bill is to update the Nurses Act to ensure a responsive and modern legislative framework that supports the provision of safe and high-quality nursing services and to ensure compliance with competition policy principles.

In addition, the bill amends the Nurses Act to establish the role of the nurse practitioner and allow suitably qualified nurse practitioners to be authorised to prescribe a limited range of drugs and poisons under the Drugs Poisons and Controlled Substances (DPCS) Act.

Since the passage of the Nurses Act in 1993, there have been revisions to the acts that regulate optometrists, osteopaths, chiropractors, podiatrists, physiotherapists, dental practitioners and Chinese medicine practitioners. There have also been recent amendments to update the Medical Practice Act 1994.

The national competition policy review process has provided the opportunity to review and, in some cases, strengthen provisions regulating nurses, as well as to introduce modern provisions to regulate advertising of nursing services, requirements for professional indemnity insurance, and an updated definition of unprofessional conduct.

The Nurses Board of Victoria will have powers to require that registered nurses and applicants for registration provide additional information to the board on:

> criminal convictions or committals to stand trial for indictable offences;
>
> any court-ordered settlements for medical negligence, either personally or through their employers.

This is intended to strengthen the board's ability to address any issues that might affect the nurse's ability to provide safe and competent nursing services to the community.

The nurses board will also have powers to require evidence of adequate arrangements for professional indemnity insurance as a condition of initial and continuing registration.

The board will have the power to issue guidelines about minimum terms and conditions of these insurance arrangements. Arrangements acceptable to the board may also vary depending on whether nurses are covered by their employer's insurance arrangements or

are in non-clinical contact roles and may require a lesser level of cover.

The powers of the nurses board are strengthened and streamlined to receive, investigate and conduct hearings into complaints of unprofessional conduct and to impose sanctions where necessary. Their powers under section 24 to conduct investigations and hearings on their own motion without receiving a complaint will also be clarified.

I do not propose to outline other provisions in detail. They are designed to ensure that the board has power to:

receive and investigate complaints, conduct hearings and make findings and determinations in relation to nurses who have let their registration lapse;

obtain warrants for the entry and search of premises;

select from a panel of experts appointed by Governor in Council members to sit on hearing panels;

in the interests of justice suppress the identity of a nurse who is the subject of a formal hearing, up until the hearing panel makes a determination;

require nurses to return their current certificates of registration for endorsement with any conditions, limitations or restrictions imposed.

The bill amends the provisions concerning appointment of board members to specify in detail the categories of nurse members that Governor in Council is to appoint. This amendment is designed to ensure that the board has members with expertise in the range of nursing roles and duties, work settings and practice environments.

The most significant changes proposed in this bill are the provisions that establish the role of the nurse practitioner. The nurse practitioner is a registered nurse educated for advance practice.

The bill creates an offence for anyone other than a registered nurse with the required endorsement from the nurses board to use the title ‘nurse practitioner’. A nurse practitioner must also identify the category of practice to which their endorsement relates.

Some categories of nurse practitioner will be authorised under the Drugs, Poisons and Controlled Substances Act to obtain, possess, use, sell or supply drugs and poisons in schedules 2, 3, 4 and 8.

Hon. R. A. Best — On a point of order, Mr Acting President, substantial amendments were made to the bill in the other place but the second-reading speech now being read by the minister appears similar to the second-reading speech when the bill was introduced into the other place. It appears not to reflect the amendments made by the government in that place, which substantially change some of the provisions in the bill particularly in relation to the nurses board consulting with various areas of medical practice and expertise to ensure the appropriate registration of nurse practitioners. I ask the minister whether the second-reading speech she is now making reflects the changes effected by the amendments in the other place.

Hon. M. M. GOULD — On the point of order, Mr Acting President, Mr Best is right; amendments were made to the bill in the other place. I understand the second-reading speech is worded in such a way that even with the amendments it does not need to be changed. I will have that checked, so perhaps we can adjourn the second-reading speech or seek advice from the Clerks.

Hon. R. A. Best — Further on the point of order, Mr Acting President, I do not know what the procedure is, but I assure the house that the amendments, particularly those to the grandfather clause, significantly change the emphasis and intent of some of the major provisions of the bill.

Hon. M. M. GOULD — Further on the point of order, Mr Acting President, the amendments will be included in the clean bill, but the second-reading speech does not need to reflect them.

The ACTING PRESIDENT (Hon. P. R. Hall) — Order! I suggest that the Minister for Industrial Relations continue with the second-reading speech, and if before debate on the bill starts it is found that the second-reading speech does not adequately reflect the bill to be considered by this house we may move to strike out this second-reading speech and proceed with another.

Hon. M. M. GOULD — I will continue.

The bill also amends the DPCS Act to empower the Governor in Council to make regulations to prescribe the list of schedule 2, 3, 4 and 8 poisons that members of each identified category of nurse practitioner are authorised to prescribe. There may be categories of nurse practitioner approved by the nurses board for entry on the nurses register that are not included in regulation under the DPCS Act and therefore are not authorised to prescribe scheduled drugs and poisons.

The authorisation of nurse practitioners is to be limited to the list of drugs prescribed in regulation under the DPCS Act for the relevant category of nurse practitioner. In addition, an endorsed nurse practitioner can prescribe from the identified list of drugs only for purposes of treatment associated with the context of practice within which they work and within established clinical practice guidelines. They must also comply with any conditions, limitations or restrictions imposed by the nurses board on their endorsement.

There will be a carefully managed process for establishing the initial lists of drugs and associated clinical practice guidelines for each category of nurse practitioner and the minister may seek the advice of the Poisons Advisory Committee.

This process is expected to include the following steps:

the educational and clinical practice requirements for nurse practitioners endorsed in each category are established by the Nurses Board of Victoria in consultation with key stakeholders including relevant medical and nursing experts and specialist medical and nursing bodies; and

clinical practice guidelines for each nurse practitioner category have been developed in consultation with relevant medical and nursing experts and specialist medical and nursing bodies and comply with the National Health and Medical Research Council guidelines published from time to time on development of clinical practice; and

the clinical practice guidelines specify procedures and/or protocols for safe prescribing of the identified formulary or list of relevant schedule 2, 3, 4 and/or 8 drugs and poisons approved for prescribing by qualified nurse practitioners in that category of nurse practitioner.

There has been sufficient consultation with key parties in the development of the clinical practice guidelines and that there are adequate mechanisms in place to ensure these guidelines are regularly reviewed and kept up to date.

This process will ensure that this extension of the scope of practice of registered nurses is introduced in a planned and considered manner and that public health and safety is protected.

It will be an offence under the DPCS Act for a nurse practitioner to prescribe drugs and poisons that are not included in the list that they have been authorised to obtain, possess, use, sell or supply or for a purpose outside the category of practice to which their endorsement relates. It may also constitute unprofessional conduct under the Nurses Act.

In other measures to enhance public safety the board will have the power to issue and publish codes for the guidance of nurses as to recommended standards of practice. The board may refer to these codes as evidence when determining whether unprofessional conduct has occurred.

It is expected that development of these codes will be done with appropriate consultation with the profession and be based on sound evidence.

The bill provides for registration protection for those nurses who cross into Victoria from other states and territories to assist in organ recovery, patient transport or to provide emergency treatment.

The bill establishes for the first time powers for the nurses board to regulate advertising of nursing services. These provisions are modelled on those in the Medical Practice Act and other health practitioner registration acts and are considered necessary as more nurses choose to work in private practice.

The bill creates a power for the board to prepare guidelines for registrants on minimum acceptable standards for advertising of nursing services, and for these guidelines to be published by order of Governor in Council in the *Government Gazette*.

There are powers for courts to order corrective advertising and impose penalties for continuing offences, with a three-year limitation period for prosecution of such offences.

The bill complies with Victoria's obligations under the national agreements on mutual recognition and competition policy.

Development of the bill has involved an extensive process of consultation and discussion. The current board and professional associations have been most helpful and constructive in shaping these amendments.

I commend this bill to the house.

Hon. M. T. LUCKINS (Waverley) — I move:

That the debate be adjourned until tomorrow.

I seek clarification from the minister on the second-reading speech. I acknowledge your earlier ruling, Mr Acting President, but the minister should advise the house as soon as the government becomes aware of the position on the second-reading speech so that the opposition knows how it should proceed.

The ACTING PRESIDENT (Hon. P. R. Hall) — Order! The point will be clarified prior to debate on the bill commencing.

Motion agreed to and debate adjourned until next day.

DOMESTIC (FERAL AND NUISANCE) ANIMALS (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 Domestic (Feral and Nuisance) Animals Act 1994 was assented to on 15 November 1994 and was proclaimed on 9 April 1996. Following an initial period of adjustment to the new legislation, the act has been widely accepted by end users, particularly municipal councils who are required to enforce the act, as providing a sound framework for the management of domestic animals. The act addresses community concerns particularly in relation to dangerous dogs and irresponsible owners of domestic animal businesses and has enabled these issues to be effectively managed by local government.

There have, however, been a number of submissions to government over recent years requesting changes to the legislation for a variety of reasons. In particular, the Municipal Association of Victoria has made several submissions relating to various aspects of the act in respect of which councils were having difficulty either in its application or enforcement.

A recent review by the Local Government Professionals Statutory Special Interest Group has also identified a number of areas where legislative amendment to the act appeared necessary to resolve problems being confronted by municipalities. The proposed amendments are mainly of a technical nature that would improve the effectiveness and enforceability of the current legislation.

I will now deal briefly with some significant features of the bill.

Dogs and cats on private property without permission

The bill makes it an offence for dogs and cats to be on private property without permission. Currently under the act, a landholder or occupier is required to notify the owner of an animal that the animal is not permitted on the property. If the animal is a stray and has no owner, the process cannot be followed; therefore no action can be taken. The bill will allow an owner to seize or allow the council to seize a dog or cat that is on private property without permission. The council will then have discretion to issue a notice to the animal's owner if the animal can be identified stating that the animal is not permitted on the person's property. Any entry on the property by the animal after this notice is issued will result in an offence. If an animal is not able to be identified it will be impounded.

Dangerous dogs

These amendments will rectify an inconsistency in the act where guard dogs had to be confined in prescribed enclosures during the day but could be let out at night to guard non-residential premises. In the latter situation, the type of fencing around the area being guarded was not required to be specified. The proposed amendments will provide for dogs that have received any form of attack training and dogs which guard non-residential premises to automatically be designated as dangerous dogs. This means the dogs will be subject to appropriate controls on housing and keeping which are provided for under the act and regulations.

Pet shops

The definition of a 'pet shop' will be amended to exclude from its ambit a stall at a casual market, consistent with the original intention of the current provision. This proposal ensures that such a stall cannot be registered as a domestic animal business making such sales clearly an offence under the act. This ensures against excessive and/or improper handling, transporting and housing of animals, which is common in the market-sale situation, as well as aiding the prevention of impulse buying.

Council orders regarding dogs and cats in public places

Currently councils have the power to make orders prohibiting or regulating the presence of dogs and cats in public areas managed by the respective councils. The definition of 'public area' does not allow councils to make orders in places such as car parks at universities. The amendments will expand this power to allow the councils to make such orders in respect of private property, which is open to the public, with the consent of the owner.

Dogs rushing or chasing people

Research in the last two years indicates that 52 per cent of incidents reported to councils as dog attacks involve rushes and chases, which result in no physical injuries

to the victim. Councils regard these as relatively minor offences and are reluctant to take court proceedings. However, these early signs of antisocial behaviour by dogs often lead to more serious attacks in the future. The bill will enable a proactive council to effectively deal with this type of dog by enabling either the council or the court to declare the dog to be a menace. This declaration will allow the council to require that when the dog is off the owner's premises, the dog be on a lead or muzzled if it is in an off-leash area. If the dog continues to display this type of threatening behaviour on a minimum of two further occasions, a council will be able to declare the dog to be a dangerous dog, with the further restrictions on the control of that dog applying.

Seizure of dogs involved in attacks from private residences

The amendments will allow an authorised officer, with assistance and with a court order, to enter a private residence to seize a dangerous dog where an offence relating to the dangerous dog has occurred or is suspected or where a dog is suspected of having attacked a person. The act then requires a council to hold the animal until the outcome of the court case is known.

Registration by council for commercial domestic animal businesses

Currently, councils are exempted from having to apply for and pay a fee for registration of any domestic animal business they run. In compliance with the national competition policy review, an amendment is proposed which will restrict this exemption to council-run shelters and pounds. Any commercial enterprise run by a council such as boarding kennels will be subject to the same controls and provisions as apply to other businesses.

Procedures for the recovery of a seized animal

There is no statutory requirement for an owner or agent to provide proof of ownership or any identification before removing an animal from a pound. There is also no statutory requirement for a person to register or apply to register an animal before it is recovered. A purpose of the act is to have an effective registration scheme, and the deficiency in the current requirements does not fully achieve this purpose. The bill will require proof of ownership and evidence of current registration or application for registration to be made before an animal can be released.

The bill ensures that municipal councils can fully and effectively implement and enforce the provisions of the act for which they are responsible without imposing unnecessary restrictions on responsible dog and cat owners.

I commend the bill to the house.

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

Debate adjourned until next day.

MAGISTRATES' COURT (COMMITTAL PROCEEDINGS) BILL

Second reading

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

That this bill be now read a second time.

This bill contains important improvements to the operation of committal proceedings.

The primary purpose of a committal proceeding is to enable the Magistrates Court to determine whether there is sufficient evidence to require a defendant to stand trial for a serious offence in either the County or Supreme Court.

However, an effective committal system can achieve much more. It can also:

filter out cases which should not proceed to trial;

ensure adequate disclosure of the prosecution case;

define the issues in dispute;

clarify issues relevant to a potential plea of guilty;

clarify issues to enable the prosecution to decide whether to continue or discontinue with the charges; and

ensure a fair trial.

When a committal system also achieves these objectives it:

assists all people connected with a matter including the victim, witnesses and the defendant; and

ensures that resources in the courts, the Office of Public Prosecutions, Victoria Legal Aid and Victoria Police are used more effectively.

Significant changes to the committal system were made in 1999 both by the previous government's amendments to the Magistrates' Court Act and by rules made by the Magistrates Court.

In March 2000 the Department of Justice established the Committal Proceedings Monitoring Committee to monitor and identify any problems with the committal system. The committee was comprised of representatives from the Magistrates Court, the Criminal Bar Association, the Victorian and commonwealth directors of public prosecutions, Victoria Police, Victoria Legal Aid, the Victorian Aboriginal Legal Service, the law institute, the Victorian bar and the Department of Justice. The government would like to thank the committee members for their dedication, expertise and the quality of their analysis and recommendations for improving the committals system.

The committee members indicated that there is general support for the key elements of the committal proceedings system. However, the committee identified a number of problems, including that:

- the extensive focus on compliance with the procedural steps in the new system has been at the expense of achieving the objectives of committal proceedings;
- the time frames are too tight and inflexible;
- defence applications for leave to cross-examine a witness at a committal proceeding often take considerable time to prepare, for limited gain in terms of the objectives of committals;
- hearings of applications for leave to cross-examine are protracted — rulings as to what can and cannot be asked are by necessity departed from at the committal hearing;
- too many applications for leave to cross-examine witnesses (particularly young witnesses) are being refused, leading to more young people being cross-examined at trial, thereby increasing the trauma to young witnesses;
- to avoid the procedural difficulties, there has been an increased number of defendants bypassing the committal process altogether by electing to proceed directly to trial without a contested committal.

Whilst the primary purpose of committals is largely being achieved, the system is not achieving its other purposes as well as it should. As a result, an increased amount of time is being spent by the County and Supreme courts on issues which previously had been effectively dealt with in the Magistrates Court.

The primary aims of the bill are to:

- ensure all participants are focusing on achieving the purposes of committal proceedings; and
- introduce flexibility into the system and streamline procedures.

Leave to cross-examine a witness

The bill changes the test for obtaining leave to cross-examine a witness at committal. Currently, leave to cross-examine a witness will only be granted where the court is satisfied that the scope and purpose of the proposed questioning has substantial relevance to the facts in issue. As indicated earlier, the committee concluded that this test inappropriately restricts cross-examination, is cumbersome and wastes resources.

The bill provides that the defence must identify an issue and give a reason why that issue is relevant. If the court is satisfied that cross-examination of that witness at committal is justified, then leave to cross-examine the witness will be granted. This is a much simpler test and one that more appropriately balances the needs of the various participants.

Under the bill, once leave has been granted to cross-examine a witness, the court retains a power to call upon the defence to indicate why a question is being asked and may disallow a question if, for instance, it is not satisfied that question is justified.

Witness under 18 years of age

The previous government's amendments have proved to be too restrictive, having led to more witnesses under the age of 18 (young witnesses) being cross-examined at trial. Cross-examination at trial is widely accepted as being more traumatic than at a committal. The amendments are designed to reduce the number of young witnesses being cross-examined at trial. This may lead to more children being cross-examined at committal proceedings. However, if a young person gives evidence at a committal proceeding, this often enables either the defence to determine whether to plead guilty or the prosecution to determine whether to withdraw the charges because of insufficient evidence. If a trial is avoided, this will minimise the trauma to the young witness.

As indicated above, the test for obtaining leave to cross-examine a witness has been changed. When

application is made to cross-examine a young witness the bill requires that the court must consider a range of other factors including:

the need to minimise trauma;

the age of the witness;

any relevant characteristic of the witness including age, culture, personality, education and level of understanding.

The court will also be provided with stronger powers to control inappropriate cross-examination of young witnesses at committal proceedings. The factors that are relevant in determining whether to grant leave to cross-examine may also be considered by the court in determining whether to disallow a question. Further, a question may be disallowed because it is misleading, confusing, annoying, intimidating, oppressive or repetitive.

These proposals provide measured and appropriate restrictions concerning the cross-examination of young witnesses. These restrictions are much greater than those which applied at any time prior to the 1999 amendments.

Compulsory examination procedure

If a witness refuses to make a statement, the police may apply to the court for an order to examine that witness under oath in open court. This procedure is sometimes necessary in fraud cases where employees of financial institutions are increasingly reluctant to provide statements because doing so may breach a confidentiality agreement with their client. There is a clear public interest in ensuring that investigations are not stopped because of such arrangements. This power was provided by the previous government in its amendments introduced in 1999.

However, when strong powers are provided, it is important that appropriate safeguards are also provided. This bill provides those safeguards. The court will be provided with important information, such as whether the witness is a suspect in the proceedings and whether the witness has received legal advice concerning the proposed examination. Further, the defence will now be able to be present when this examination takes place and may, in exceptional circumstances, address the court concerning this proceeding.

Miscellaneous amendments

The bill also makes a number of procedural changes and other amendments:

time limits for the service of documents have been made more flexible;

the categories of people who may witness statements have been expanded;

following a committal proceeding, the defence will be able to apply for leave to call a witness who was unavailable at the time of the committal or who provides a supplementary statement. This right was removed in 1999, resulting in problems arising at the trial stage in some cases.

The amendments contained in this bill will be complemented by changes to the rules. The combined aim of these changes is to ensure that the committals system not only achieve its primary purpose of enabling the Magistrates Court to determine whether there is sufficient evidence to require a defendant to stand trial but can also more effectively achieve its broader purposes, such as filtering cases and identifying issues in dispute.

The improvements to the criminal justice system provided by this bill further implement the government's policies of achieving a justice system that is fair, accessible and understandable, and in which the community has confidence.

I commend the bill to the house.

Debate adjourned for Hon. C. A. FURLETTI (Templestowe) on motion of Hon. D. McL. Davis.

Debate adjourned until next day.

TRANSPORT ACCIDENT (AMENDMENT) BILL

Second reading

Debate resumed from 31 October; motion of Hon. M. M. GOULD (Minister for Industrial Relations).

Hon. D. McL. DAVIS (East Yarra) — The Transport Accident (Amendment) Bill is a significant bill that the opposition does not oppose. I shall make a number of comments about it in a fairly systematic way.

My first point is that the bill needs to be placed in the context of the Transport Accident Commission, known as the TAC, and the service it provides to Victorians. The bill amends a number of aspects of the transport accident scheme and provides some welcome benefits. There are, however, some difficulties attached to it,

which I will mention. I again make it clear that the opposition does not oppose the bill.

I place on the record the important position the Transport Accident Commission occupies in the life of Victorians. It is a body that I believe is the envy of similar and variant schemes around the country and internationally. Through the TAC the system provides benefits for Victorians injured in or because of motor vehicle accidents. The bill extends some no-fault benefits in a way that is not too costly to motorists and Victorians generally and will give injured people financial security.

It is important in considering bills about the Transport Accident Commission to ensure that its strength is maintained, and in the back of our minds must always be concern for people who, often through no fault of their own, have been injured in motor accidents. As I have said, the scheme provides no-fault benefits for people injured in motor accidents in Victoria. We must always ensure that the financial strength of the scheme is maintained and is in no way compromised.

In that context I turn briefly to the annual report of the TAC, and I compliment the commission on its financial strength. The summary of results in the commission's annual report for 2000 shows that payments totalled $469 million. There were a total of 41 199 new and existing claims, and the total number of claims received in all schemes was 21 383. There were 402 road fatalities. That is a figure of which Victorians are justifiably proud, and a figure that makes this state the envy of countries around the world.

It reflects the road safety efforts of a number of governments, both Labor and Liberal, and also the work of the all-party Road Safety Committee. In particular it reflects the significant part the commission has played in undertaking public health measures and education campaigns that have played a crucial role in maintaining Victoria's road toll at a level that — although it can always be improved on — does bear national and international comparison. The fatality rate of 1.24 per 10 000 vehicles is quite low by international standards and has been obtained against the background of the number of registered vehicles increasing to 3.246 million in the 1999–2000 financial year. The TAC has achieved those results without having too severe a financial impact on motorists — the average premium is $277.

The financial situation of the commission is important. As I have said, the solvency margin is at a satisfactory level. The investments of the TAC are well recognised, and the organisation has been very efficient and praiseworthy in the way it has carried out its investment program. Every insurance company, which to a certain extent is what the TAC is, makes a significant amount of its resources from the investment of the funds it holds in trust for those who may at some future point need to make claims. The Transport Accident Commission has been spectacularly successful over the past decade in managing its financial situation.

I make those comments as background to the bill. I also note that the reduction in the number of accidents has meant a corresponding decline in the severity of injuries which not only results in public health benefits but has significant financial benefits. For example, the black-spot program is achieving good outcomes. Most honourable members welcome that sensible step, which results in better outcomes.

The bill makes a number of amendments to the Transport Accident Act. It provides administrative adjustments because of the introduction of the goods and services tax. The bill covers such things as death benefits for surviving non-earning spouses; travel and accommodation payments; early determinations for stable injuries; additional funds for counselling where appropriate and extended availability; additional house and vehicle costs; a definition of nervous shock; and amends provisions relating to medical reports and blood alcohol readings. It also provides for matters such as electronic lodgments.

I shall refer to other amendments to the Accident Compensation Act. Clause 3 expands the definition of dependent spouse and enables lump sum payments to the surviving spouse who has full responsibility for the care of children. I note the comments of the honourable member for Prahran in the other place earlier in the year. She made some sensible points that most reasonable people supported. The amendments take out some of the proposals supported by the opposition. The amendment assists country people in particular who have to travel more than 100 kilometres to see hospitalised family members. That important and humane step enables adequate visitation rights for people who are hospitalised.

Clause 4 amends the definition of a transport accident to cover cyclists injured when travelling to and from work. The opposition understands what is intended and believes it is an important step. I know Dale Sheppard is aware of the provision and that his family and others in the community are aware of the comments of the former Leader of the Opposition, the Honourable John Brumby. It is important to make the point that when in opposition Mr Brumby received considerable media coverage about his fulsome comments about Dale

Sheppard. However, the current opposition is concerned that Mr Sheppard has not been catered for and that despite the promises made by Mr Brumby the Labor government chose not to assist Mr Sheppard by making what I and members of the opposition believe could have occurred through an ex gratia payment. That would have been just and fair in the circumstances, especially considering Mr Brumby's comments when he was in opposition.

I refer to the *Sunday Herald Sun* of 12 November which refers to an article in that newspaper of 12 September 1997. The article reported that the then opposition leader, the Honourable John Brumby, said that he would introduce a private member's bill. The article states:

> I will introduce a private member's bill this week to ensure that Dale Sheppard and other Victorians receive the compensation and assistance they deserve — and in a caring, passionate society would receive.
>
> The bill amends the Transport Accident Act to provide that cyclists who collide with a motor vehicle, train or tram are eligible for compensation irrespective of whether or not the vehicle was moving at the time of the collision.
>
> The act in its present form makes it far too easy for the government and the TAC to simply ignore its obligations to injured road users by applying a cruel and callous interpretation of the law.

Yet the bill contains no provision that will enable Dale Sheppard to receive justice. There is no evidence that the current Treasurer has attempted to follow through with the comments he made when he was Leader of the Opposition. That is unfortunate. Although the bill extends TAC benefits to cyclists who may be injured in the future, it does nothing for those who were injured in the past. Given the comments of the then Leader of the Opposition that is unjust. Those with a heart who understand Dale Sheppard's problem will support the proposed amendment that I will move during the committee stage so that specific difficulty will be covered. I urge the government to adopt a reasonable position to the proposed amendment.

Clause 5 provides that shift allowances and regular overtime be included in the calculation of entitlements and loss of income. It will require former employers to provide details so that the commission can assess the loss of earnings. The opposition believes that is a fair and reasonable provision.

Clause 6 inserts proposed section 10A, which will ensure that the Transport Accident Commission is no longer subject to the State Owned Enterprises Act. The provision is a recognition that the TAC will not be privatised in the future. The former government considered a number of enterprises and statutory authorities for privatisation, but decided early in its last term not to privatise the TAC and to that extent this provision is a hangover from that decision. The Honourable Alan Stockdale, an excellent Treasurer, made a sensible decision about the TAC. Most people supported the decision and still support it.

The bill also makes many procedural amendments. Clause 7 amends section 20 of the principal act to clarify quorum rules regarding the board of the TAC. Clause 8 makes consequential amendments to section 23 to enable the commission to authorise services to be disability services under the principal act. They are important changes. I note the definition of disability services in clause 3 will ensure that the right choices are applied to recipients of the system who are injured. It is important to have a system that provides appropriate services. We were advised at the briefing that it would be a sensible step.

Clause 9 provides for an extension of time to review a decision relating to the authorisation of a service from 28 days to 12 months. Clause 10 provides for dividends to the state and return of capital. Although many statutory authorities provide dividends to the state government — there is nothing inappropriate with that per se — given the history of Labor governments in the past that were prepared to lift dividends significantly, and one-off dividends on some occasions, I undertook some research. An article in the *Age* of 12 August 1992 states:

> Relations between the Kirner government and its main public authorities soured further yesterday with the government's decision to fund its budget with $1.2 billion taken from the public utilities' coffers.
>
> The Transport Accident Commission lost more than $750 million in one hit.

Honourable members who value the Transport Accident Commission are aware that previous Labor governments have considered authorities such as the TAC in a way that has not benefited the organisations or their recipients. They have been viewed as bodies from which cash could be taken. I do not believe there is anything wrong with the practice of taking sensible dividends if it is done sensibly and has the interests of the statutory authority at heart. I sound that note of caution. The TAC will move from being a reorganising enterprise under the State Owned Enterprise Act.

Clause 11 provides for dividends, and the opposition wants to ensure it is used responsibly. Clause 12 clarifies breaches of the Road Safety Act and the Crimes Act which draw any or all exclusions from loss of earnings benefits.

Clause 13 imposes a six-year limit on applications for a determination of impairment in the event that impairment has not become apparent in the opinion of the commission. That is a reasonable step. Clause 14 provides for the determination of impairment benefits without regard to legal costs, and attempts to define and remove inconsistencies in the situation where impairment was the result of more than one accident. It allows the commission to determine the level of impairment where required. If several accidents occur the provision will ensure consistent treatment. It will ensure that fair and equitable benefits are paid to people with similar levels of disability and impairment rather than allowing some sequencing in the formula to disadvantage one against another.

Clause 15 provides for apparent loss of earnings by the introduction of the goods and services tax. It is a reasonable procedural adjustment. One could argue that the adjustment should have been made before 1 July 2000. Adjustments have been made in other government schemes, and this provision in the bill is an overdue adjustment. Clause 16 restores entitlements to a person who is unsuccessful in returning to work after participating in an approved rehabilitation program. That is an appropriate step.

Clause 17 ensures that earnings are calculated by reference to possible earnings had the accident not occurred. That is an important provision. Clause 18 provides for the commission to be repaid if the tribunal finds that an overpayment has been made. It ensures that where payments are made in error such errors can be adequately corrected.

Clause 19 attempts to clarify the compensation for attendant care services if a claimant travels overseas. The claimant should be paid at Australian dollar rates. There should be no disadvantage to the scheme but claimants should have the option of travelling for short periods to appropriate family or other functions and have the appropriate level of attendant care provided. Clause 20 clarifies the commission's obligation for payment of modifications to homes and vehicles. That is important because problems emerge wherever administrative law exists and there is potential for lack of clarity. As one who has dealt with the act in another occupation I know that aspects of the act can from time to time be difficult to manage. The clause provides greater clarity, which is advantageous.

Clause 21 removes the mandatory requirement of a driver's accident report and defines it as discretionary. The information provided at the briefing suggested it is a clarification of current practice. Clause 22 defines a requirement for provision of a driver's accident report when requested by the commission.

Clause 23 repeals the requirement for a statutory declaration to enable claims to be lodged electronically. It also provides that an authority to obtain information set out in a claim form remains in force and cannot be revoked until a claim is fully settled. Clause 24 extends the time for making a claim by a minor to enable him or her to make a claim for compensation on reaching 18 years of age.

Clause 25 reduces the time in which the commission must accept or reject a claim for compensation from 28 days to 21 days. That is a brave move which must be commended. Any bureaucracy that attempts to improve the speed at which claims are processed deserves to be commended. The Transport Accident Commission has become expert at handling claims efficiently and effectively. It is a tribute to the organisation's management ability to settle or make early decisions on what are sometimes complex cases to advantage both the authority and the claimant. Certainty is a key aspect of that process.

Clause 26 provides for the commission to suspend the benefits if a person fails to attend certain medical examinations. Some may regard the provision as harsh, but there is a need for the authority to review cases and to have the best expert opinion to make decisions. Claimants are not always cooperative. The administration of the system requires that claimants, including advisers to claimants — that is, lawyers and advocates — cooperate with the scheme in a reasonable manner. There is clear justification for that aspect of the bill, but it must be applied sensitively and reasonably by the authority. There is a history of medical examiners being used by insurance companies — and I would not accuse the TAC of this — to manage claims in a way that are driven by a round robin of medical examinations and by unfavourable and difficult medical examiners. It is to be deplored, and the clause therefore needs to be applied in a reasonable and sensitive manner.

Clause 27 sets out the requirement for the tribunal to set a date for the review of a decision of the commission and confirms the application of provisions of the Victorian Civil and Administrative Tribunal Act to cost rules applicable in making an offer of compromise. As I said, the administration of the system needs to function smoothly, and most of the changes are driven by a desire to see the system move as smoothly and seamlessly as possible.

Clause 28 deals with evidence of lawfully taken blood or a breath analysis taken after a transport accident in common-law proceedings. I note that amendments to be put before the house deal with this issue, and I will comment on them in a moment. Certainly there is an issue of law as to the admissibility of blood taken in that way as part of criminal law proceedings. There is a need to ensure that samples are admissible and that the proceedings at common law can have access to that evidence.

Clause 29 provides that the commission is released from further liability under section 60 in the event of common-law settlement. Clause 30 amends the definition of serious injury to include psychological consequences of injury. It also sets out that the physical consequences of mental or behavioural disturbance must be taken into account for the purpose of defining serious injury. I will comment on that clause in the context of amendments to be put before the chamber later on. There is no doubt that it is important that people's rights be open in this area, and there is no doubt that people who are seriously injured should have access to proper compensation.

However, although the proposed changes may achieve the support of honourable members, it is important that they be understood in the context of changes to Workcover that have reintroduced common-law rights and are likely in my view to lead to a culture of litigation beginning to develop in this state once more. I believe that is already being seen with the flood of applications that were received. There is both an opportunity and a difficulty that may occur with too wide an opening in this serious injury area.

Victoria has had a very healthy culture that has been focused on rehabilitation and achieving the best outcomes for claimants, but I sound a note of caution: the change in culture that flows from the reintroduction of common law in Workcover may well spill over into common-law claims under the Transport Accident Commission scheme.

It is important to keep a weather eye on the organisation. Many things have been learnt over the past 15 or 20 years with regard to insurance schemes, workers compensation and transport accident schemes. One has only to go back to 1985 and the old motor accident board scheme to realise that was completely out of control and unable to deliver financial security and certainty to claimants. As legislators we always need to be cautious when amendments to schemes of this sort provide opportunities for loss of financial soundness. We must ensure the security of the scheme.

Clause 40 makes it clear that the bill requires a statement to be made under section 85 of the constitution. I note that the amendments will seek the omission of that clause, thus removing the need for a section 85 statement. That is welcome to the extent that the fewer section 85 statements that are required, the better. When government members were in opposition they talked at great length about section 85 statements and the reduction of people's rights to appeal to the Supreme Court. There is no doubt that the government should change the jurisdiction of the Supreme Court sparingly. I note that clause 44 in the part of the bill that deals with the Workcover scheme deals with a section 85 statement, and it reduces the rights of Victorians. I repeat that the government should use the section 85 device sparingly.

A number of issues surrounding the bill will be the subject of discussion as the amendments are dealt with. The bill will guarantee that Dale Sheppard is at last given justice. After the hollow promises delivered in 1997 by the then opposition, promises which were not honoured, Dale Sheppard will finally be able to feel that justice has been done.

I now turn to an issue that flows from a letter from the Minister for Workcover to the shadow Treasurer in the other place. It is an interesting letter that resulted from some questions the opposition had in the briefings, and it relates to a promised review document. In the briefings constant reference was made to a review document. I find the letter disturbing and surprising, surprising because of the constant reference in the briefings to a so-called review document. The letter, dated 25 October, states:

> In following the matter up I am advised by the TAC that there is no review document as such. Over the period of the last 12 months the TAC has identified a number of sections of the act where problems have arisen over several years in both administration and legal interpretation of the scheme.

The letter goes on to say:

> These issues were agreed by the TAC board and refined after consultation with external parties.

Who, is the immediate question. The letter further states:

> The combined information was included in the draft cabinet submission prepared for me. At the same time, other issues had been separately identified by the Department of Treasury and Finance and they were subsequently added to the final submission that was signed by me as the relevant minister.
>
> These issues, such as the removal of the discrimination against same-sex couples and electronic lodgment of documents, were deleted from the draft submission as they were being addressed through other legislation.

I was concerned about the deletion of some of those provisions, and the opposition looks forward to seeing them find their way through to this chamber. I register my concern about the existence or non-existence of the review document. I believe a document did exist, and one can only surmise that the minister was unprepared, notwithstanding earlier comments and submissions — —

Hon. K. M. Smith interjected.

Hon. D. McL. DAVIS — Hiding it. That is exactly right. The review document clearly contained comments the government did not wish to be publicly available.

Hon. K. M. Smith — This is open and transparent government!

Hon. D. McL. DAVIS — That is exactly right.

Hon. T. C. Theophanous interjected.

Hon. D. McL. DAVIS — No, the Honourable Ken Smith has made a number of points. He, like others in this house, is concerned by attempts to cover up and to inject a note of secrecy. That is always concerning.

I note one other aspect of the bill — that is, the introduction of the right to make de novo appeals to the Court of Appeal. That mirrors provisions in an earlier bill to make changes to the Workcover legislation. The minister in this house, the Honourable Monica Gould, made the point that those de novo appeals would or could occur. However, it is interesting that people have not focused on the fact that the appeals will impact on people in country Victoria. As the system becomes more litigious and more open to appeals it will be possible for the authority to appeal directly from the Supreme Court to the Court of Appeal, which more often than not will lead to hearings in Melbourne and thus to greater expenses.

That trend in legislation — which, I admit, flows from an earlier decision of the Court of Appeal — and the introduction of the right to make de novo appeals to the Court of Appeal can significantly add to legal costs overall, particularly for country Victorians. Those people do not want to be dragged into the city to make their appeals; they would rather make them in a more straightforward way. Notwithstanding that the Court of Appeal has travelled more than it has in the past, the overwhelming bulk of cases are heard and will continue to be heard in Melbourne in the future.

During the committee stage the opposition will move a number of amendments and ask a number of questions. However, the opposition does not oppose the bill and considers that it provides a number of significant benefits.

Finally, I make the point that I made earlier in my contribution — that is, the Transport Accident Commission is a very important and respected body. As its annual report states, it is a body of great financial soundness that needs to be preserved so that it can maintain its focus on providing the right rehabilitation, prevention and financial strength to enable it to deliver on future obligations to those who unfortunately have been injured in motor vehicle or other accidents around the state.

Hon. W. R. BAXTER (North Eastern) — I was fortunate to be at what might be termed the birth of the Transport Accident Commission (TAC) when the associated legislation was passed in this house in 1986. But more than that, over a period of months I was closely associated with its gestation. It was during the time of the Cain government when the National Party held the balance of power in this house. The National Party and the then Liberal opposition expressed a number of concerns about the proposals of the government of the day. That led to many meetings at the Premier's office, particularly in the cabinet room, with representatives from the respective parliamentary parties, the Law Institute of Victoria, various government departments, and advisers.

I recall some fairly intense negotiations and I especially remember the contributions made from time to time by one Ian Baker, who subsequently became the honourable member for Sunshine in another place. Mr Baker liked to consider himself as the father of this legislation, but my recollection is that his negotiating style was so difficult and so disruptive that the Premier finally lost patience and banished him from subsequent negotiations. I must say that after that we got on famously, commonality was reached and the bill was presented to Parliament and passed.

The legislation has been one of the great success stories of the postwar years. As the Honourable David Davis noted, the commission has conducted its financial affairs very well indeed; it has built up significant reserves and, by and large, has acted fairly and equitably on behalf of and in response to injured motorists, passengers and pedestrians. It has seen them adequately compensated and had a significant impact in reducing the road toll in Victoria.

There are various reasons for the decline in road deaths. During the late 1970s they were at a horrendous level. Sadly road deaths are beginning to trend upwards again.

However, the TAC education campaigns involving fairly graphic television, radio, highway billboard and newspaper advertisements as well as school programs, have made 90 per cent of motorists much more conscious of the need to take care with their driving in various weather conditions. The TAC has also alerted motorists to the dangers of drinking and driving, unroadworthy vehicles, and so on.

The TAC has certainly been a success story. It has been carefully managed and has returned big dividends to governments of both persuasions. Perhaps the commission may not have wanted to return those dividends, but nevertheless it has provided many millions of dollars to the former government and to this government.

That causes me to hark back to the comments I made during the debate last week on petrol pricing. Perhaps it is time for consideration to be given to the motorists of the state who are clearly paying third-party motor accident insurance premiums well in excess of the costs of meeting claims. Maybe it is time that motorists stopped subsidising other sections of government expenditure and that the government ought to be looking at reducing premiums.

One of the suggestions I made last week was that the government could use the money it is siphoning from the Transport Accident Commission as a means of giving relief to motorists in this state for the very high petrol prices currently experienced because of worldwide increases in oil prices. That was one suggestion. However, I put on the record that the average premium is approaching somewhere near $100 per year more than it needs to be if it were being used simply to meet claim costs. I am not suggesting a $100 reduction; I am suggesting that it is time some reduction were considered for the motorists of the state.

I have a sense that the TAC might be losing sight of its objectives — that it is really there to compensate, care for, and make appropriate arrangements for those persons who are unfortunate enough to be injured in motor vehicle accidents.

It is a no-fault scheme and the TAC has done very well. However, when I read the commission's annual report and attend meetings I get the feeling that it is perhaps getting a view, fairly solidly set within its ranks, that it needs to be building up huge reserves. The TAC is not viewing itself as the saviour of injured motorists but as a bastion they have to assault or breach to get just compensation. That sentiment has not been expressed as crudely as that, but I believe an attitude is developing that it is a them-and-us scenario rather than a commission that is designed to deliver benefits to people who are injured in motor accidents. I see some of that in the provisions in the bill dealing with serious injury. There might be some obsession in the commission about building up reserves rather than carrying out its statutory duty.

Before I refer to those issues, I point out that there are some good features in the bill, all of which the National Party has no difficulty in supporting. Clearly the adjustments to take account of the GST are warranted and quite appropriate. No-one can complain about that.

I am pleased to note the clarification that modifications to motor vehicles or homes should not be restricted to the particular motor vehicle owned by the claimant or his place of residence at the time. I do not believe that was the intent of Parliament in 1986. In 1986 Parliament had the view that modifications should be made to an appropriate vehicle and residence and that if what was currently held did not meet the criteria, substitutes could be purchased and subsequently modified. If that was not the subsequent interpretation of the legislation, Parliament obviously made a mistake and it is appropriate that that is now clarified.

The move to provide some counselling for persons or their families after road trauma is useful. I am a little nervous about counselling in this day and age. We seem to rush in the counsellors at the slightest bit of misfortune or the like, and I do not want to be going down the path where people cannot make their own decisions and bear a bit of pain. However, the effect of serious motor accidents on both the victim and his or her immediate family, especially young children, could well justify some counselling, and I am pleased to see that in the bill.

I am also delighted that there will be some reimbursement for relatives who need to travel more than 100 kilometres to visit injured motorists in hospital, rehabilitation centres or wherever. That will certainly be a significant benefit to the residents of regional and rural Victoria. I feel somewhat guilty that that was not addressed earlier — it was obviously an oversight.

Similarly, I have no problem with the provision that makes it clear that the death of a motorist who was entitled to and had a common-law claim on foot should not preclude the finalisation of that action. Clearly the family may be left destitute if an award of damages that would have assisted it is not forthcoming simply because the claimant has died.

I move now to features of the bill about which I have some concern. I am concerned that in the bill there appears to be some attempt by the commission to narrow the drafting race for serious injury. Mr Davis has referred to the respective provisions and I will deal with them in committee where I will move some amendments. I know Mr Theophanous is likely to say that that is exactly what the opposition tried to do in workers compensation and to some extent he would have a point if he did so. I was endeavouring to make access to common law in workers compensation as tightly defined as possible.

I believe the system introduced by the former government provided fair and just compensation regardless of fault for injured workers. We should not be encouraging people to go down the common-law lottery path and be dependent on whether they can prove negligence, whether they have a good barrister or who might be on the bench that day. However, one can draw a distinction in terms of motor accidents where people driving down a road may find their whole lives changed forever by the negligent action of another motorist. While the no-fault provisions might pay the medical benefits, modify their car for the future and buy them a wooden leg, one can justifiably say that if negligence can be proved against the other motorist, there must be some capacity for a lump sum compensation payment.

I am concerned that the bill as worded is an attempt to narrow that drafting race too much. If it can be demonstrated to the National Party in the future that people who should not be are getting through and that the system is being abused, we will be prepared to look at it again. I acknowledge Mr Davis's concern that we need to keep a weather eye on this so that changes in culture or whatever do not lead to costly blow-outs and people getting lump sum awards of huge magnitudes to which they are not entitled.

However, the National Party's amendments will simply maintain the status quo. We believe the current system is working well and that the courts are administering the act in a proficient, fair and equitable manner. If the need for the change can be demonstrated more adequately than it has been to the Leader of the National Party in the other place, Mr Ryan, and myself in all the briefings we have had, we will be prepared to look at it again. At this point we are prepared only to maintain the status quo in terms of the definition of serious injury.

One of the things at the back of my mind all the time is the potential for conflict of interest. If the collector of premiums is also the payer of benefits there is a natural inclination to close the outflow as much as possible. I am not saying that there is any move on the part of the commission to be unfair, but a natural inclination to narrow the valve is being demonstrated in this bill and I want more evidence that that needs to be done before I will agree to it.

In the committee stage I also want to move to the matter of bringing drink-driving offences under the Road Safety Act into civil procedures. I do not object to the principle but the way it has been done in the bill is clumsy and open to endless litigation. I have an amendment which goes to the issue and I will allude to it in the committee stage.

I refer the house to the Dale Sheppard case. I am troubled that it has come to this. An unequivocal commitment was given to Mr Sheppard by the then opposition leader at the time of Mr Sheppard's unfortunate accident. I find it very strange indeed — to say nothing of being very disappointing — that the then Leader of the Opposition, now the Treasurer, a very senior member of this government, could not see his way clear to honouring a promise he made in such strident terms two or three years ago. That is why in the committee stage I intend to propose a very narrowly drafted amendment which will simply go to Mr Sheppard and will name him. Naming an individual is an unusual occurrence for an act of Parliament but it seems to me that to not do so would have Parliament being derelict in its duty.

The newspaper reports, combined with the telephone calls and correspondence to the electorate offices of honourable members, demonstrate widespread community support for what is perceived by almost everybody to have been an injustice but which was aggravated by a promise made but not honoured. Something had to be done. Through the bill Parliament has moved to protect its integrity and rectify a serious legislative shortcoming.

I do not agree with retrospective legislation. I regard it as objectionable because usually it removes a right. The difference in this case is that if the bill is to be characterised as being retrospective, it gives a right to Mr Sheppard rather than removing a right. It honours a promise made. Injustice would have been compounded if that promise had not been honoured. The legislation is being amended to cope with similar circumstances that may occur in the future. However, Mr Sheppard may have missed out because he happened to fall between the cracks.

People might ask, 'What about others in the community?'. Mr Sheppard's case has attracted

tremendous publicity. So far as I am aware, nobody else has come forward, put up his or her hand and said, 'What about me?'. The case is properly classed as a one off. No promise was made to anybody else. Parliament is justified in legislating in this way; it could be regarded as being without feeling were it not to act in this way. Otherwise, opprobrium would justifiably have been heaped on Parliament.

I acknowledge that the bill is a convenient vehicle by which to amend the Accident Compensation Act to incorporate the changes to occupational health and safety designations of dangerous goods. I have no problem with that aspect. However, I am fascinated because the Minister for Workcover in the other place has been caught out by his own words. He has been running around alleging that the former government failed to provide sufficient premium levels to cover Workcover liabilities. It is alleged that the former government artificially kept the Workcover premiums low; he said it failed to abide by and then ignored actuarial estimates.

In the second-reading speech the minister talked about applications lodged prior to the cut-off date not for the restored but for the previous common-law claims. It states:

> In the event, over 2000 applications were lodged during the last few weeks of August. The increase was not predictable given the information available to Workcover and its actuaries. This influx of pre-1997 claims applications will impose severe strains on the ability of Workcover …

The minister cannot have it both ways: he cannot, on the one hand, allege that the former government failed to act on its actuarial advice but, on the other hand, through the bill claim that nobody could know about it. He has been caught out badly. My other comments can wait until the committee stage.

Hon. T. C. THEOPHANOUS (Jika Jika) — I support the Transport Accident (Amendment) Bill. The Honourables Bill Baxter and David Davis identified some of the important and innovative legislative changes that will benefit people injured on Victoria's roads. I welcome their support for the changes.

The Transport Accident Commission is one of the great Labor Party successes. It was established to bring some level of equity and fairness into compensation for injuries resulting from road accidents. By any standard it has done a phenomenal job.

Hon. R. M. Hallam — And to get away from the lottery of common law. That is ironic.

Hon. T. C. THEOPHANOUS — It has done a good job in the delivery of common law, Mr Hallam, that is true. I could never understand why Mr Hallam could not see his way clear to allow those same common-law provisions to remain in the Workcover scheme because that model worked. If he did not think it worked, when in government he would have removed Workcover and Transport Accident Commission (TAC) common-law aspects. But I will not get into that debate.

Mr Baxter tried to draw a distinction between people who may be injured on the roads — and who therefore have common-law claims — and those injured in the workplace. He argued that the trauma associated with being injured on the road through the fault of a negligent driver should be a basis for seeking compensation against that negligent driver through common law.

I have never been able to understand the difference drawn between a negligent driver and a negligent employer. The emphasis must be on negligence regardless of whether an employer or driver has been negligent. If negligence leads to serious injury, people should be able to seek compensation through common law.

The great success story of the TAC is that it introduced a system that allowed Victorians to drive their cars in the firm knowledge that they were protected on a no-fault basis if injured while driving. The TAC has had phenomenal success in reducing the road toll.

No honourable member would argue against that. We should all be very pleased with the efforts of the Transport Accident Commission because literally hundreds of Victorians are alive today as a result of the efforts and strategies adopted by the Transport Accident Commission.

I well remember a campaign by the *Herald Sun* in the 1980s around the theme of 'Make war on 1034'. That followed a year in which 1034 people were killed on Victorian roads. Now we talk in terms of 300 road deaths being too high. Much of that reduction is directly attributable to the strategies adopted by the Transport Accident Commission which have meant that not only are hundreds of people alive today who would not otherwise have been but that the sheer cost to the community of those deaths and injuries has been reduced. I know the commission is not entirely responsible — improvements in car technology, roads and all sorts of other things have contributed as well. However, the strategies of the Transport Accident Commission played a major part.

Hon. R. M. Hallam interjected.

Hon. T. C. THEOPHANOUS — Many things, Mr Hallam. There is no question about that. However, a dramatic turnaround occurred at about the time of the introduction of a range of strategies by the Transport Accident Commission. Honourable members should all be pleased about that.

I make a point about the premiums of the Transport Accident Commission. Although Mr Bracks argued that the premium level is high, there is another side to the argument. I refer to the 1993 annual report of the Transport Accident Commission which identifies the increases in premiums from 1987 through to 1993. Over that six-year period the premiums went from $250 to $255. The report also identifies what the increase would have been if Melbourne car premiums had been indexed to the consumer price index — honourable members will remember there were significant consumer price index increases in those years. The report shows that in 1993 the premium would have gone up to $373, but in fact it went up a mere $5 over six years. That is pretty phenomenal.

Hon. W. R. Baxter — That is a good record, but you should acknowledge that that has been subsidised by governments of both persuasions.

Hon. T. C. THEOPHANOUS — I certainly acknowledge that, so long as we are clear it is both persuasions. I am happy to say that. Indeed, I believe something in the order of $1 billion or so was taken out by the Kennett government. It is certainly true that that has occurred.

Honourable members might be interested to know that the current average premium is set at about $277. Therefore it went up by $5 in the six years from 1987 through to 1993. From 1993 to today it has gone up from $255 to $277, which is a considerable amount by comparison. The question of premiums is therefore an issue. However, the bigger issue, and certainly what this legislation is addressing, is the level of compensation being paid and how that affects the injured.

Before going into what I consider to be the important parts of the legislation, I make a point about Mr Sheppard, who was referred to by Mr Baxter and who will be referred to again during the debate. By way of a general comment, the government was faced with essentially two competing principles — one being retrospectivity and the other being the desire to help other people. The government did not just face that principle because of Mr Sheppard. That principle had to be faced because of the reintroduction of Workcover common law and victims of crime.

In both cases there were very strong arguments that the government should go back and give common-law rights and compensation rights to those individuals. In fact, I was one who felt a great deal of turmoil about the notion that those who were unlucky enough to be injured at a certain time would miss out on common-law rights while others injured either before that time or since the reintroduction of common-law rights would benefit. I was very concerned about that, but a decision had to be made. In the end the decision was made to defend the principle of retrospectivity, and it surprised me that the National Party decided to go down that path because Mr Hallam on many occasions defended the opposing view. I therefore see it as somewhat ironic. I heard Mr Baxter's comment that it is a benefit and not the taking away of a benefit. However, once one does that, where does the giving of benefits back to people stop?

Hon. W. R. Baxter — So long as you make it individual; that is the difference.

Hon. T. C. THEOPHANOUS — That is not what you said. In the instance that I am talking about — —

Hon. R. M. Hallam — That is exactly what he said!

Hon. T. C. THEOPHANOUS — But Mr Baxter also argued that the principle of retrospectivity could be overridden on this occasion because it was a benefit rather than the removal of a benefit. I am responding to Mr Baxter's comment by saying that that may well be true, but if the retrospectivity principle is given up simply because people get benefits, one has then to argue about other benefits that other people have missed out on. If one were to do so for common-law claims and say, 'Well, this is only a benefit' the victims of crime would also argue that it is only a benefit and so on. And on it would go; so significant issues are involved.

I would also say to Mr Baxter that he does not know whether other people have been injured in that way. His way of handling that issue is to move a simple amendment that names the individual concerned. What that means, however, is that if another person were to come forward the government would be back here putting up another piece of legislation to cater for another individual. Some significant issues in the course of action the opposition has decided to adopt go to the question of whether legislation passed by a house of Parliament should apply only to a single individual. That is a very significant question.

Hon. R. M. Hallam interjected.

Hon. T. C. THEOPHANOUS — I understand the politics, Mr Hallam — that is, it might score points right now — but other principles are involved, of which Mr Hallam is aware, and they need careful consideration before Parliament starts passing bills or amendments dealing with a single individual in our community.

In the brief time I have available I want to come back to some of the important aspects of the bill which I have not yet mentioned. It has been said that the bill removes the disadvantage to recipients of income from the Transport Accident Commission as a result of the introduction of the goods and services tax. The GST has an adverse effect on the purchasing power of TAC claimants in receipt of benefits for loss of earning capacity. The bill ensures those benefits are not affected by the GST by increasing the amount of payments to those people to compensate for any loss of earnings. I understand that both sides of the house support that. It will result in an increase in payments of 4 per cent to those individuals, backdated to 1 July 2000, which is when the GST was introduced.

I wish to mention the payment of dependency benefits following the death of a non-earner, which is dealt with in clause 3. In terms of total benefits, the tax scheme already has a no-fault scheme. Following the death of a wife or mother who is primarily responsible for the care of children at the time of death, the tax benefits provide up to five years of housekeeping and child care for the family of the deceased at an estimated cost of $190 000. That compares to the Northern Territory scheme, which provides $115 000, and the Tasmania scheme, which provides only $80 000.

Notwithstanding that the benefits payable under the TAC are already the best provided in Australia, the government has introduced legislation that provides lump sum compensation of between $57 515 and $115 030, depending on the age of the deceased, to a family following the death of a mother or primary care provider engaged in housekeeping and the care of children. The TAC expects to incur increased costs as a result of this reform of between $1.7 million and $3.4 million per annum, so it is a significant benefit to the community.

Another issue which has arisen is additional benefits for seriously injured claimants and their families, comprising counselling for those families and modifications to vehicles. The Transport Accident Act currently provides for family counselling after death in a transport accident but does not do so in other circumstances. Clause 19 includes a new provision which extends access to family counselling to counselling for the family of a claimant who is severely injured in a transport accident. That recognises the trauma suffered by a family as the result of a severe injury to a loved one in a transport accident. That should be a welcome inclusion.

The bill also allows for modifications of an existing home or motor vehicle. A claimant may have a vehicle or may be renting accommodation that is not suitable for modification. Under the provisions of the bill the claimant will have access to a contribution towards the purchase of a suitable vehicle and assistance with obtaining accommodation which can be modified to meet his or her needs. Honourable members would understand that that is important for severely injured people.

Another aspect of the bill which should be mentioned is the additional benefits for minors under the transport accident scheme. The scheme currently provides that if the amount of loss or earning capacity cannot be calculated under the act, 60 per cent of average weekly earnings is used to establish the amount of compensation. That provision applies to minors and results in a payment of approximately $300 a week when the minor turns 18. That is 60 per cent of average weekly earnings. The bill changes the basis of the calculation to 80 per cent of average weekly earnings and results in an increase in the amount payable to a person with no work history to approximately $400 per week — an increase of $100. I am sure all honourable members welcome that initiative.

Finally, I mention the payment of visiting expenses for a spouse and dependent children, which has been mentioned by Mr Baxter. The bill extends the right to receive visiting expenses to the spouse and dependent children of an inpatient if they reside 100 kilometres or more from the hospital in which the spouse or parent is an inpatient. The bill enables the cost of visiting expenses to be met as part of a compensation claim up to a statutory cap of $5000 per claim. I note that Mr Baxter indicated to the house that he felt somewhat guilty that that issue was not addressed by the previous government. This government is happy to be putting it forward today.

The Transport Accident Commission expects that measure will assist up to 50 families each year with the payment of additional visiting expenses. It is a very important initiative which I am sure will be welcomed by country Victoria. The initiative shows more than anything the fact that the government considers the needs of rural Victoria with every piece of legislation

that comes before the house. The initiative is small; however, it is important to the families of those who have been injured on the roads. As many people know, that often involves serious injury requiring transfer to a major trauma hospital in the Melbourne metropolitan region. In such cases transport for the family to visit their loved ones becomes a significant issue. I certainly welcome that initiative.

The bill is significant and important because it will help seriously injured people. It will strengthen the Transport Accident Commission, and it should be supported by all members of the house.

Sitting suspended 6.30 p.m. until 8.03 p.m.

Hon. P. A. KATSAMBANIS (Monash) — I will focus only on the elements of the bill that refer to workers compensation and occupational health and safety, parts 3 and 4. Part 4 amends the Dangerous Goods Act to change the present reference to the transport code to a reference to the Australian Code for the Transport of Dangerous Goods by Road and Rail, known as the ADG code. The provision reflects the national agreement and is non-controversial, so I need only comment on it rather than discuss it.

Part 3 makes a series of amendments to the Accident Compensation Act. It is instructive to refer to the debate in this place in May on the amendments to the Accident Compensation Act. During that debate I referred to the fact that there would be further amendments to those introduced by the government in May. Only a few months later the chamber is considering additional amendments because the scheme introduced by the government in May has led to blow-outs and abuse and has not provided adequate or effective workers compensation. The government was warned during the debate in May that its amendments would cause extensive haemorrhaging of the funds available to meet the liabilities of the Victorian Workcover Authority.

Clause 41 amends section 135A of the act to extend the period the authority has to determine the eligibility of certain applications made to it for access to common law under what is commonly known as the old common-law system — the system that applied before November 1997. This is a problem of the government's own making, because prior to the amendments that came to this place in May the final date for lodging old common-law claims — pre-November 1997 claims — was December 2000. The government in its wisdom decided to change that cut-off date to 1 September 2000 and allow the authority a period of 120 days to make a determination whether the claims were eligible for access to the old common-law regime.

The chickens have come home to roost. The government has advised the opposition that in the last few weeks of August, the closing date for the applications, there was a flood of applications. The second-reading speech states in part:

> … over 2000 new applications were lodged during the last weeks of August. The increase was not predictable …

The government did not know what was coming. It was in a difficult situation. It has extended by 90 days the opportunity for the authority to assess the incoming claims. If the government had not reduced the cut-off date from December to September it would not have this problem. There would still be plenty of time to lodge claims without this last-minute rush.

There is another sting in the tail. The second-reading speech said the increase in old common-law applications was not predictable. The house must take the second-reading speech at face value. It says the government had no way of knowing that in the last few weeks of August there would be a flood of applications, but on 23 October the Minister for Workcover in the other place issued a press release condemning the former coalition government for not taking into account the effect the additional claims would have on unfunded liabilities in the Workcover system. The government cannot have its cake and eat it.

If the government did not know about the 2000 additional claims that were received in the last few weeks of August, the previous coalition government could not have known about them. The actuaries did not know about them because the actuarial report did not mention them. If they were new and did not emerge until the last few weeks of August, the previous government could not have known about them. The minister's press release was too smart by half in condemning the former government. The minister was trying to have his cake and eat it. The second-reading speech says the claims were unpredictable, unknown, difficult to assess, someone else's fault and so on, so the former government could not have known about them.

That highlights the hypocrisy of the government. The 2000 rushed claims over the past few weeks for the period open to make claims prior to 1997 show that when one introduces common-law action into the Workcover jurisdiction it will be open to significant abuse, such as speculative claims being made by lawyers using the injured workers for their own personal gain to increase the ambit and the authority of the common-law regime.

The government was warned, and now the chickens have come home to roost. It has already shown up with the pre-1997 claims. Under the new scheme costs will blow out and eventually premiums will have to increase. If this government is like the previous Labor government it will increase premiums by a small amount and let the unfunded liabilities bleed, which will not benefit Victorians.

Clauses 43 and 44 give the minister power to make directions about the amount of legal fees that lawyers and legal firms can charge, and that will be done only if necessary. Amendments to the act in May extended common-law claims from this year and the bill allows the minister to intervene and limit law firms' costs to the pre-November 1997 scheme. Effectively, it is an admission by the minister that not only will claims increase unfunded liabilities but also legal fees associated with common-law actions will spiral. In effect, costs to prove negligence in common-law actions will blow out.

The minister is taking some insurance by introducing amendments to the principal act so he can hold it over the lawyers and say, 'You be good lawyers because I may limit your fees'. The proof will be in the pudding about whether the minister uses that with his Labor mates and the Labor law firms. It is an admission that legal fees in the workers compensation scheme and the Victorian Workcover Authority are beginning to spiral out of control.

The government said unfunded liabilities have increased from $120 million to $579 million, and that has been independently assessed by the actuaries Tillinghast Towers Perrin. The report should be made available because there may be differences between what the actuaries are telling the authority and the minister, not what the minister tells us the actuaries have said.

Hon. K. M. Smith — It is a secret government.

Hon. P. A. KATSAMBANIS — Mr Smith makes a good point. Before the election the government spoke about open and accountable government but when in government it has turned out to be extremely secretive. If the report is not made available the government will prove by omission that it is not independent, open and transparent and that the rhetoric is a political tactic that is being used for electoral gain and that the government has no interest in implementing it.

Part 3 of the bill amends the Accident Compensation Act to make self-insurers for journey or close-to-journey accidents liable to the excess as if they were insured under the Workcover scheme. It tries to put them on an even keel. However, when one examines the detail, questions must be asked about whether it is sensible because self-insurers have undertaken to take on liabilities, including the excess. It is different from businesses or organisations that are insured under the scheme. Since they have taken out liability to pay out the entirety of a worker's entitlement, it is open to argument that they should have the ability to receive compensation from the Transport Accident Commission for the total payment they make to their workers because they are not in the same situation as employers insured under the Workcover scheme itself.

Although the government says it creates consistency one is not comparing apples with apples because self-insurers have taken on the entire liability. If they can be compensated under the Transport Accident Commission for that liability, they should be compensated for its entirety, not for a portion of it. They do not insure for the excess; they insure for the whole amount as self-insurers.

Many elements of the bill can be discussed ad nauseam but the Honourables David Davis and Bill Baxter have highlighted the main issues. The Honourable Bill Baxter said he proposes to introduce a number of amendments during the committee stage, and I commend the National Party on that.

The bill extensively amends the Transport Accident Act through the back door which is a reaction to and a direct result of its ideological commitment to reintroducing common-law claims for personal injury when it was clear that those common-law claims would endanger the ongoing financial viability of the Workcover scheme.

Just a few short months down the track the government is trying to patch up the mess it created. It should not slip these amendments in under the guise of a Transport Accident (Amendment) Bill. The government should have the guts to bring in a separate substantive bill to highlight its own failings to the chamber and to the public at large.

The DEPUTY PRESIDENT — Order! I am of the opinion that the bill requires to be passed by an absolute majority. As there is not an absolute majority of the members of the house present, I ask the Clerk to ring the bells.

Bells rung.

Members having assembled in chamber:

The DEPUTY PRESIDENT — Order! So that I may be satisfied that an absolute majority exists, I ask honourable members supporting the motion to rise in their places.

Required number of members having risen:

Motion agreed to by absolute majority.

Read second time.

Committed.

Committee

Clause 1 agreed to.

Clause 2

Hon. W. R. BAXTER (North Eastern) — I move:

1. Clause 2, lines 17 and 18, omit "31, 32, 34, 35, 36, 39, 40, 41, 43 and 44" and insert "31, 32, 33, 36, 37, 39 and 40".

This is a consequential amendment in the sense that it alters the clause numbers contingent on my subsequent amendments being adopted by the committee. To that extent it is something of a test clause. Mr Chairman, I seek your advice as to whether I should foreshadow the other amendments now, or whether you will put this one.

The CHAIRMAN — Order! We will deal with them separately.

Hon. M. M. GOULD (Minister for Industrial Relations) — As Mr Baxter said, there is little to say about the amendment. It is consequential, and responses will be made to the other amendments to be proposed by the honourable member.

Amendment agreed to; amended clause agreed to; clause 3 agreed to.

Clause 4

Hon. W. R. BAXTER (North Eastern) — I move:

2. Clause 4, page 6, after line 4 insert —

"(2) After section 3(7) of the **Transport Accident Act 1986 insert** —

'(8) The definition of "transport accident" as amended by section 4(1) of the **Transport Accident (Amendment) Act 2000** applies to and in respect of any claim arising out of the transport accident which occurred on 7 February 1997 involving the pedal cycle of Mr Dale Sheppard as if the definition as amended by that section was in force when that transport accident occurred and this Act has effect accordingly.'.".

This might be styled the Dale Sheppard amendment, because it goes to the issue and is specific to Mr Sheppard in that it names him and nominates the date of the accident he was involved in as being 7 February 1997. In moving the amendment I respond to Mr Theophanous's comments earlier this evening — I am disappointed he is not here for the balance of the debate — when he was somewhat critical of my remarks and tried to suggest that I was doing something untoward and retrospective. I made it perfectly clear that the National Party was taking this action to honour a promise that was made to Mr Sheppard and the public of Victoria by the now Treasurer when he was Leader of the Opposition.

However, the distinction I make with regard to the comments made by Mr Theophanous is that, unlike an injured employee in a workplace, who might have been denied access to common-law benefits in the interval between the abolition of those benefits and their reintroduction when the government came to office but who would have received weekly benefits and accorded other assistance, Mr Sheppard received no assistance. He did not receive medical benefits or rehabilitation, and he was never provided with a wheelchair. All those things would have been provided as a matter of course to an injured employee. The inference Mr Theophanous was endeavouring to draw was wide of the mark.

I reiterate what I said at the second-reading stage: as a matter of course the National Party does not favour retrospective legislation. However, it believes this case is exceptional because an unqualified, unequivocal promise was made to Mr Sheppard by the Minister for State and Regional Development when he was Leader of the Opposition. It must be said of all honourable members that if politicians are to stand for anything this promise must be kept. The promise is the driving force behind the amendment; the retrospective nature of the amendment is simply the mechanism Parliament has to enable it to deliver on that promise.

The injustice perpetrated on Mr Sheppard by the failure of the government to accommodate him in its legislative amendments is aggravated by the fact that the clause contains an amendment to address the circumstances in which Mr Sheppard was originally injured. From the date of proclamation of the clause indemnity will be available to cyclists who collide with motor vehicles while travelling to or from their place of employment. To make an amendment of that sort yet deliberately exclude Mr Sheppard from it is to make

worse the government's failure to keep the promise to him.

Mr Chairman, I believe the Parliament is a place where not only must justice be done, it must be seen to be done. Commitments given must be honoured when there is an opportunity to honour them, and I invite the committee to support the amendment.

Hon. M. M. GOULD (Minister for Industrial Relations) — The government opposes the retrospective amendment. Honourable members will be aware that the government's position on retrospectivity in accident compensation schemes was made clear during the debate on the Workcover legislation passed earlier this year. However, government members appreciate the weight of numbers and that the amendment will be carried in this place. In that event the government proposes to proceed with the bill in its amended form because it is essential that some elements of the bill become law before Christmas, so the government must have passage of the bill in the current spring sittings.

Amendment agreed to; amended clause agreed to; clauses 5 to 27 agreed to.

Clause 28

Hon. W. R. BAXTER (North Eastern) — I move:

3. Clause 28, page 32, omit lines 7 to 11 and insert —

> "(6B) A party must not adduce material referred to in sub-section (6A) in evidence in proceedings under this section unless —
>
> (a) the party provides to all other parties in the proceedings, copies of the document or documents which form the evidence at least 6 weeks before the commencement of the trial of the proceedings; and
>
> (b) if notice is given to that party by another party at least 2 weeks before the commencement of the trial of the proceedings, the party causes the person who supplied the information contained in the document or documents to attend the trial of the proceedings for the purpose of cross-examination.".

This amendment omits certain lines and inserts others. Clause 28 relates to the principle of introducing into a civil action in the form of a common-law proceeding under the act evidence relating to 0.05 offences that has been obtained in a criminal proceeding under the Road Safety Act. I referred to this in my remarks on the second reading. I felt that the way the bill was worded left it open to endless litigation about whether the readings had been lawfully obtained in the context of a civil proceeding as distinct from the proceedings under the Road Safety Act.

It had been the National Party's intention to amend subsection (6A) because it was concerned that the subsection did not properly accommodate the various difficulties that arise when there is an attempt to apply process relative to criminal proceedings in the environment of civil proceedings. While members of the National Party have decided not to attempt to amend subsection (6A) tonight, we are of the view that that subsection will find its way back to Parliament before too long.

The National Party has sought to amend subsection (6B) to ensure that appropriate notice is given to all parties regarding the intention to use documents that are intended to be part of the evidence. There is a further requirement that appropriate notice must be given of the intention to cross-examine the person who supplied the information which constitutes the document that is to be introduced into evidence.

In short, that will mean that if the TAC wishes to introduce into evidence the .05 readings or the blood tests or the drug tests — if subsequently we have such things — that may have been obtained from the occupants of a car, it will need to deliver to the plaintiff's solicitors at least six weeks before the trial copies of the documents in the form of the relevant certificates and any other material upon which it may intend to rely.

If, on the other hand, the plaintiff's solicitors wish to cross-examine the police officers who took the samples that gave rise to the certificates, they will need to give at least two weeks notice to the TAC, through its solicitors. In other words, the basic design of the amendment is to avoid trial by ambush and ensure that both sides know what is intended if this line of evidence is to be led.

Hon. M. M. GOULD (Minister for Industrial Relations) — The government does not support the amendment. However, assuming the amendment is carried, the government will proceed with the bill in the amended form.

Amendment agreed to; amended clause agreed to; clause 29 agreed to.

Clause 30

Hon. W. R. BAXTER (North Eastern) — I move:

4. Clause 30, omit this clause.

The amendment seeks the omission of the clause currently before the committee. I think the minister intended the clause to codify the existing common law surrounding the interpretation of section 93(17) of the Transport Accident Act, which goes to the definition of serious injury. Under the terms of this amendment the clause will be omitted, thereby ensuring that the current common-law interpretation stands without any legislative interference.

The common law regarding the interpretation of serious injury is based on two leading cases. In *Humphries v. Poljak* the full court — which of course, as we are aware, was a precursor to the current Court of Appeal — determined that, to be 'serious', the consequences of the injury must be serious to the particular applicant and that they will relate to 'pecuniary disadvantage' and/or 'pain and suffering'. In *Richards v. Wylie* the Court of Appeal determined that the serious injury defined by section 93(17)(a) can have its seriousness measured in part by a mental response to a physical impairment. What it will not recognise is that the mental disorder can itself constitute or be the producer of the impairment of a body function.

The combination of these two cases essentially means that in an application for a serious injury certificate under subsection (17)(a) there must first be a substantial physical injury. However, it is also legitimate to take account of the mental trauma associated with that event and its consequences for the purposes of making that determination. On the other hand, a certificate which is sought purely on the basis of a mental disorder must come under subsection (17)(c), with any bodily impairment arising from that condition being used as evidence of that mental disorder.

At one of the conferences National Party members attended an example was given of a lady who suffered a minor slipping accident at work which resulted in minimal physical injury but which created such a hysterical reaction that it ultimately led to wasting of the limbs — to the point where she could not walk. Clearly her application had to come under subsection (17)(c).

The National Party is of the view that in trying to codify the common-law position the use of the words contained in proposed clause 30 would at least lead to gross confusion and at worst result in people who are presently able to obtain a serious injury certificate being locked out.

I know the government maintains that all it was trying to do was codify the decision in Wylie, but the National Party remains sceptical of its intent. I refer to the remarks I made in the second-reading debate when I said that perhaps the intention of the commission was to make the hurdle to qualify for a serious injury a bit more difficult to get across.

However, I want to emphasise to the committee that this amendment simply maintains the status quo. If the commission and the government are able subsequently to come back with some clear indication that further work on this provision is required, the National Party will be prepared to give it every consideration.

Hon. M. M. GOULD (Minister for Industrial Relations) — The government does not support the amendment. Clause 30 codifies the case law. That is the effect of the government's advice. However, in the event that clause 30 is deleted, the substantive law will not be altered, save that the case law will continue to be in place rather than the codification. Accordingly, in the event that the amendment is carried, the bill will proceed in the amended form.

Hon. D. McL. DAVIS (East Yarra) — On the matter of the serious injury clause and the amendment proposed by Mr Baxter I note that the minister has orally opposed it but has not called a division on the amendment. I note the points made by Mr Baxter, but what I seek from the minister is an answer to this question: what costs did the department imagine the proposed change in the law would lead to or would prevent?

Hon. M. M. GOULD (Minister for Industrial Relations) — Mr Chairman, I am advised that there was not a cost. It was a clarification.

Amendment agreed to.

Clause negatived.

Clause 31

Hon. W. R. BAXTER (North Eastern) — I move:

5. Clause 31, omit this clause.

This is a companion to the previous amendment. It relates to the attempt by the minister to avoid the present position whereby factual issues determined by the court at the time of the serious injury application are regarded as finalised for the purpose of any subsequent trial. As a non-lawyer I think that is a fairly well-known legal tenet.

The initial serious injury application is usually conducted through the County Court. Often questions of causation arise — for example: did the injury of which the plaintiff complains actually arise as a result

of the accident which is said to have caused it? The current state of the law is that once that issue has been determined in the initial hearing the whole issue is resolved and cannot be relitigated when the plaintiff subsequently proceeds to trial. This concept is in keeping with the well-established principle of issue estoppel.

The minister wanted to enable the TAC to have another go at the plaintiff at the trial on the same decided issues by legislating against issue estoppel. The removal of this clause will preserve the decision where there is an issue estoppel at the trial regarding all issues of fact which have been determined at the initial serious injury application. I think the committee would accept that this is a longstanding legal tenet of great repute. On the evidence educed in the second-reading and committee stages there seems no reason for the committee to countenance the overturning of this well-known legal precedent.

Hon. M. M. GOULD (Minister for Industrial Relations) — The government does not the support the amendment. This clause puts the Transport Accident Commission scheme in the same position as the Workcover scheme, legislation that was passed earlier in the year. However, I appreciate that by the weight of numbers the amendment will be carried. The government will proceed with the bill in the amended form.

Amendment agreed to.

Clause negatived.

Clause 32

Hon. W. R. BAXTER (North Eastern) — I move:

6. Clause 32, omit this clause.

This clause, which relates to appeals, proposes to insert three provisions. The National Party believes the clause in its totality should be omitted from the bill. The first provision is proposed section 93A. That would mean that if a plaintiff made an application for a serious injury certificate and failed, he would be entitled as of right to appeal to the Court of Appeal. That is so because under this provision the initial determination against his interest would be final and conclusively rule out his right of action.

The present state of the law is such that if the plaintiff succeeds in the serious injury application, the Transport Accident Commission can only appeal to the Court of Appeal by leave — in other words, it must go to the Court of Appeal to say there is an arguable case for it to be able to proceed with an appeal before the court.

The basic distinction between the two positions is that in the first the loss of the initial application is the end of the plaintiff's rights; he has nowhere to go. In those circumstances he is entitled as of right to go to the Court of Appeal if he so desires. However, the initial granting of the serious injury certificate to the plaintiff is not the end of the matter for the TAC. It still has the prospect of taking the plaintiff on at trial. The deletion of this provision will see the maintenance of the existing law.

Proposed section 93B relates to the hearing of appeals. Had the provision taken effect, it would have required that upon the hearing of an appeal against a determination relating to the granting or refusing of a serious injury certificate, the Court of Appeal would have been faced with the unenviable task of having to decide for itself whether the application should be granted. That would have been a nigh impossible task. The present state of the law is the Court of Appeal is simply required to make a judgment as to whether there has been some manifestly inappropriate decision by the judge in the first instance which justifies overturning the initial decision. In that event, the application would simply be renewed in the original court. Again, the omission of this provision will maintain the status quo.

Proposed section 93C was intended to require the judge hearing a serious injury application to give complete and detailed reasons for his decision as opposed to simply providing a summary of them. The intent behind this provision was to enable the Court of Appeal to have before it a complete explanation from the judge in the first instance which would give the court a better capacity to make its own judgment in the matter. The omission of this provision again maintains the status quo.

Hon. M. M. GOULD (Minister for Industrial Relations) — The government's response to this amendment is similar to that of the previous amendment — that is, the government does not support the amendment. This clause puts the Transport Accident Commission scheme in the same position as the Workcover scheme, legislation for which was passed earlier this year. I appreciate that the weight of numbers means the amendment will be carried. The government will proceed with the bill in the amended form.

Amendment agreed to.

Clause negatived.

Clauses 33 to 36 agreed to.

Clause 37

Hon. W. R. BAXTER (North Eastern) — I move:

7. Clause 37, line 26, omit "37" and insert "34".

This amendment is consequential on amendments already made by the committee.

Amendment agreed to; amended clause agreed to; clauses 38 and 39 agreed to.

Clause 40

Hon. W. R. BAXTER (North Eastern) — I move:

8. Clause 40, omit this clause.

This amendment is also a consequential amendment. The omission of certain clauses which went to section 93 of the principal act and necessitated a section 85 certificate limiting the jurisdiction of the Supreme Court means it is no longer necessary to include this provision.

Amendment agreed to.

Clause negatived.

Clauses 41 and 42 agreed to.

Clause 43

Hon. W. R. BAXTER (North Eastern) — I move:

9. Clause 43, line 26, omit "43" and insert "39".

This amendment is consequential renumbering.

Amendment agreed to; amended clause agreed to.

Clause 44

Hon. W. R. BAXTER (North Eastern) — I move:

10. Clause 44, line 16, omit "43" and insert "39".

Similarly, this amendment is consequential and deals with renumbering.

Hon. D. McL. DAVIS (East Yarra) — I wish to make the point to the committee that the minister has orally opposed each and every one of these amendments but not called a division on any of them. It is an important point to place on the public record.

Amendment agreed to; amended clause agreed to.

Clause 45

Hon. W. R. BAXTER (North Eastern) — I move:

11. Clause 45, line 29, omit "45" and insert "41".

The committee will be pleased to know that this is my final amendment and it is again consequential renumbering.

Amendment agreed to; amended clause agreed to.

Reported to house with amendments.

Report adopted.

Third reading

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

That this bill be now read a third time.

I thank honourable members for their contributions.

The ACTING PRESIDENT (Hon. P. R. Hall) — Order! I am of the opinion that the third reading of this bill is required to be passed by an absolute majority of the whole number of the Legislative Council. In order for me to ascertain whether an absolute majority exists I direct the Clerk to ring the bells.

Bells rung.

Members having assembled in chamber:

The ACTING PRESIDENT (Hon. P. R. Hall) — Order! As the bill requires to be passed by an absolute majority I ask those members supporting 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.

DRUGS, POISONS AND CONTROLLED SUBSTANCES (INJECTING FACILITIES TRIAL) BILL

Second reading

Debate resumed from 1 November; motion of Hon. M. M. GOULD (Minister for Industrial Relations).

Hon. B. C. BOARDMAN (Chelsea) — I welcome the opportunity to contribute to the debate on the bill, albeit the issue has been discussed in many forums: inside and outside Parliament, in a myriad of community groups with specific interests and particularly in the media. Therefore the opposition's stance on the bill is well known for one simple fact: it is the right stance.

The opposition's decision was not made lightly. It involved extensive consultation and has been overwhelmingly supported by the majority of the community. Although the debate may now seem unnecessary or may not have the same level of interest or intrigue that it potentially could have had when the bill was introduced, it is in no way less important today than the day the measure was introduced. The issue will not disappear irrespective of decisions governments and political parties may make. The drugs problem requires a consultative and whole-of-community approach before it can be fixed.

My personal views may differ from those of many honourable members on both sides because I come from a background that, I hope, may introduce a degree of practicality into the debate. Some honourable members may not have had the same level of background experience. In preparing for the debate and researching the drugs topic I decided the most appropriate place to start would be the speech I made in May 1996. Honourable members will remember that historic day when all parliamentary business was dedicated to the drugs issue. The debate followed the release of the report of the Premier's Drugs Advisory Council formed by the Kennett government and chaired by Dr Penington. The report dealt with decriminalising the use of cannabis and regulating heroin use; its recommendations were concerned with counselling, referrals and support services. That was one of the first speeches I made in Parliament.

The points I made were very personal because of my experience as a member of Victoria Police and having been faced daily with the drugs issue and its ramifications for the community. The points I made in May 1996 are still valid and pertinent today. One important point I made then was that Parliament can in no way undervalue the importance of educating the community on the drugs issue. I noted that as a result of the former Kennett government's policies, part of its Turning the Tide strategy was to target the vulnerable, the young and those who may become potential victims of the vicious syndrome. A drugs education booklet distributed to every Victorian house was well received. It outlined in plain English the types of drugs available, their consequent ramifications and the associated dangers. It dealt with their process and usage.

A considerable amount of money was allocated to a drugs-in-schools education program which teenage school students whose knowledge of the issue may have been, and still arguably is, overcome by emotion and propaganda generated by certain segments of the media. I have total faith in the policy and I believe it has had some benefit. Unfortunately the statistics since May 1996 demonstrate differently.

In 1996 I called for the introduction of hard-hitting advertisements similar to those introduced by the Transport Accident Commission with its drink-driving commercials; I have no doubt they have had a demonstrable and successful effect in curbing the road toll. There is still a loud call from many sectors of the community for those types of advertisements in various forms to be developed and distributed extensively throughout the wider community. I stood by that call in 1996 and I still stand by it. The use of hard-hitting shock tactics — I use the expression cautiously — that get the message to the source and ensure it is remembered by the target audience is an effective way of tackling the problem.

The situation has changed considerably since May 1996. The heroin toll has been monitored and scrutinised by the community and the media as a whole more closely and definitely since then. As a result, I suspect that, for the most part, the community's awareness of the drugs problem has become beneficial although it potentially may have created a system whereby community angst and personal concerns may have confused the ledger when dealing with the overall community problem. Personal difficulties and issues certainly become the order of the day when discussing emotive subjects such as drug dependency and drug abuse in the community. The 1996 situation has changed with increasing heroin tolls and crime rates because of drug-associated crimes as well as increasing prison populations and trends in certain types of crimes that were not as prevalent then as they are today, thereby creating a degree of alarm and despair throughout the wider community.

I note the contributions from many members in the other place and this chamber to the debate. Irrespective of personal philosophies and political ideologies and associations, all contributions need to be examined and taken in the context in which contributions have been made. However, one contribution must be singled out for being disturbingly inaccurate, misleading and quite insulting to the community represented by one honourable member. I could be considered to be taking

on a personal issue when I cite the particular member, but I believe my case is well justified because the issues were quite selectively and disturbingly ignored in that particular contribution to the drugs debate.

The honourable member for Springvale is one of my lower house colleagues. He represents an area that is and always will be at the forefront of the debate. The area has a drug problem — I use the term descriptively — that generates significant and to some degree devastating media attention. The community has some wonderful, committed and dedicated leaders who have banded together to try to find some solutions to the problem. The community faces a number of complex social and economic issues, and without the support of those leaders in trying to find some solutions to the issues the community would suffer more than it does.

The issues I am canvassing without going to specifics, as I will shortly, were selectively ignored in the lengthy contribution by the honourable member for Springvale. In his predictable, maligning and absurd manner he focused his contribution to the debate on what honourable members will agree is an important bill on trying to achieve some personal political capital. He attempted to highlight some differences that may have arisen in correspondence between the Leader of the Opposition and the Reverend Tim Langley of the Wesley Central Mission. It has been discussed in many forums whether the previous government supported the establishment at the Wesley Central Mission of an injecting facility such as proposed in the bill.

In his considerable contribution to debate in the Parliament the honourable member for Springvale, who represents an area with significant and definite problems and for which the debate will have considerable ramifications, completely and utterly ignored that area. The honourable member acknowledged his electorate in three paragraphs. In the first he gave a very brief global perspective on the drug problem, and stated some statistics that were not quite accurate. In the second paragraph he said that in the past 12 months the City of Greater Dandenong and the Southern Health Care Network had to pick up 250 000 used syringes. He also said that Bayside Trains has had to put up with sharps placed in seats, which caused some distress and inconvenience to customers. In the third paragraph he said that lighting in public toilets had to be changed so that addicts cannot shoot up there and that people's perception of personal security had declined as a consequence of that problem.

That was the whole contribution by the member elected by the people of Springvale to represent them in this Parliament to try to find some solutions and have constructive dialogue on this devastating issue — he simply gave a cheap, brief overview of the issue. Where was the reference to the extraordinary public meeting in Springvale attended by in excess of 1200 people, including the honourable member for Springvale? Where was mention of the contributions of many members of the community expressing concern about the proposal and the government's policy and the equally constructive contributions of the many members of the community trying to provide some solutions to the issue? There was not one reference to those contributions.

There was not one accolade or expression of appreciation or praise for the Springvale drug action committee, a group of dedicated local leaders to whom I referred. It has been in existence for some time and is chaired, ironically, by the deposed honourable member for Springvale, Mr Eddie Micallef, whose involvement in the issue has been exemplary. He deserves every accolade that is forthcoming. The current honourable member for Springvale made not one mention of his predecessor, whom he deposed by suspect means.

Finally, the honourable member for Springvale did not make any mention of the level of community consultation he had undertaken. He did not mention the concern expressed by the Springvale Traders Association and the Springvale Asian Business Association or the concerns and outrage of the various members of the Springvale uniformed police and criminal investigation unit. That imposter of a local member who was voted for to represent his electorate has ignored his electorate and does not deserve to be taken seriously in the debate.

Unfortunately, the contribution of the honourable member for Springvale, which must be read with contempt and cynicism, is reflective of the contributions of a number of government members. His contribution is highlighted in the feedback I have had from the community on his having treated his community with utter contempt.

In complete contrast, the contribution from other sectors of the community has been very helpful and useful. Irrespective of the fact that I do not necessarily agree with some of those contributions, it is important to take note of them and to work towards finding a common strategy to try to find some solutions to the problem. In a paper delivered on 28 June 1999, Mr Tony Parsons states:

> … if our national drug policy has been designed fundamentally to decrease drug use, decrease deaths, decrease crime and decrease corruption, Australia's drug policy in the

> latter decades of the 20th century is clearly not achieving these objectives. It is important to recognise not only the failure of the drug policy but the magnitude of this failure.

I do not know Mr Parsons but I suspect that as a member of the criminal law division of the Victorian Law Institute he would have a good appreciation of how serious and widespread the issue is. His public statement indicates that the policy of this government and arguably successive governments throughout the country has been designed from a populist rather than practical perspective.

In a media release on the Australian Drug Foundation web site Dr Nick Crofts, the Director of the Centre for Harm Reduction, states:

> The reality is that most of the problems associated with illicit drug use come from underlying social and economic causes too tough for governments to handle, on one hand, and from our disastrous policies of prohibition on the other. Therefore, drugs and drug users become a convenient scapegoat, distracting attention from the underlying social problems.

Dr Crofts has highlighted the point I have just made — that is, it is very easy for politicians to take a populist line and to try to score some political points, as the honourable member for Springvale has in this debate, without acknowledging the real issue and its ramifications.

In contrast, the Australian Medical Association was vocal in its concerns about particular elements of the opposition's drugs policy, so I wrote to the president of the Victorian division of the AMA asking for some details of its policy on a fully integrated heroin trial. I am pleased that the AMA wrote to me on 16 May and provided me with some documentation on heroin trials. The 'Report and recommendations of stage 2 of feasibility research into the controlled availability of opioids' was prepared by Gabriele Bammer of the National Centre of Epidemiology and Population Health at the Australian National University and it is quite interesting.

Honourable members may recall that some associated publicity linked to this debate was a survey of members of the Legislative Council on their support or otherwise of what the bill proposes. Honourable members may remember also that I gave a qualified yes to supporting a supervised injecting facility. My yes was about as qualified as it could possibly be. For a number of years I have advocated that there is absolutely no point from a commonsense, operational or practical perspective in having a supervised injecting facility where the substance injected in that facility or the funds used to obtain the substance have been illegally obtained. It is complete nonsense. It advocates the use of an illegal substance and the crimes that are associated with and contribute to the use of the illegal substance. From a practical perspective it could not even remotely be tolerated.

However, I would support it if as part of a controlled trial of injecting facilities there was a register of addicts, if those addicts were involved in compulsory counselling and rehabilitation and if the substances they were using as part of that program were supplied by the state. In those circumstances my qualified yes that appeared in the *Herald Sun* is justified.

I was very happy to receive a report from Gabriele Bammer of the Australian Medical Association on the costs and logistics associated with establishing the heroin trial. The report states:

> It was found that a trial would not place Australia in breach of international treaties. ACT and other laws will have to be changed for a trial to proceed and the commonwealth must grant licences and permissions.

Very true. It is impossible and impractical to legislate for a trial without commonwealth support.

The report continues:

> Of all the interest groups —

I note with little surprise —

> the police have the most concerns about a trial, and those concerns were carefully considered in the feasibility investigations.

Obviously the police are concerned about what their involvement in the whole operation would be, and similarly they are concerned about the bill. What would their involvement be if such a facility existed? From the many police officers I have spoken to it appears that there would be definite police support for a widespread, state-funded and supported heroin trial linked to the various services.

Dealing with costs and practicalities, the report states:

> The pilots and trial will be of national significance. It is estimated that establishing and conducting an initial six-month pilot with 40 participants will cost around $800 000 and a second six-month pilot with 250 participants will cost $1.5 million …

That is not a huge expenditure, as I am sure honourable members would agree. The bill is focused on saving lives, preventing heroin overdoses and trying to get the problem off the street. A total cost of around $2.3 million for a staged-access, 12-month trial involving 290 participants overall that is properly researched with the results being comprehensively

discussed and debated would be reasonable to envisage. That is far less than the expenditure proposed to establish the quasi-facilities contemplated by the bill.

In addition to the work and involvement of Australian-based organisations, the level of international research has been considerable and in some cases overwhelming. It is testimony to the work of many people, particularly the shadow Minister for Health, who, along with Rob Moodie and the Parliamentary Secretary to the Premier, the honourable member for Footscray in another place, travelled extensively through Europe to examine — —

Hon. D. G. Hadden interjected.

Hon. B. C. BOARDMAN — I acknowledge the interjection from the Honourable Dianne Hadden about Mr Mildenhall — or are you referring to Dr Moodie? All of them were very genuine.

Hon. C. A. Furletti — And Mr Doyle.

Hon. B. C. BOARDMAN — And Mr Doyle, of course. They conducted a comprehensive study overseas to find out what was happening. I sound an element of caution in discussing overseas policies. In my travels internationally to examine drug policies I found distinct differences between overseas and Australian social frameworks.

From a presentation prepared by Dr Moodie on the completion of that study it seems that the main priorities of the United States, Germany, Sweden and Switzerland run against the grain and against what many honourable members would perceive as reality. They are law enforcement, prevention, therapy and either harm reduction or social welfare. A major exception is that the United States still treats drug use as a criminal issue. Public support for that is still strong. From what I learnt from the police agencies and law enforcement bodies I visited in America earlier this year there is no way that policy will change in the immediate future.

However, Victoria Police has to work within the legislative framework provided to it by the Victorian Parliament, and that comprises three key output groups relating to drugs.

The Victoria Police report entitled *Drug and Alcohol Achievements 1993–99* gives the first key output as community support and public safety programs. The output activities are visible and accessible police presence in the community, crime prevention and public safety programs and partnerships, and emergency response readiness. Those activities are very much focused on law enforcement because drug use as it stands on the statute book at the moment is illegal and police have a direct role in enforcing that.

Linked to that, the second key output is crime investigation. It goes without saying that when an offence is committed it must be investigated within the scope of operational procedures and all elements of justice.

The third key output is road safety and road trauma reduction — something the government has not yet discussed. It is a key element of the whole issue that while alcohol is still a major contributor to road fatalities and major road accidents drug use is becoming increasingly prevalent in such incidents. Without an appropriate framework to deal with driving under the influence of a drug of dependence — establishing what that drug is, its relevant effect on people's judgment and how it may impair their ability to drive — the police have difficulties in obtaining successful prosecutions.

Victoria Police has instituted a program under which in selected parts of Melbourne police are now cautioning first-time heroin users. Victoria also has a widespread cautioning program for first-time cannabis users. The parliamentary Drugs and Crime Prevention Committee is monitoring those programs to see whether they are successful. As chairman of that committee all I can say is that at the moment it is difficult to comment.

I shall make a submission of my own on how to deal with drug abuse. Many sectors of the public have called for legislation to deal with the situation where a number of people, irrespective of age or background, mill around an area and it becomes an increasingly frustrating and difficult proposition for the police and the community to deal with them. To some degree, unfortunately, those people may be milling around an area or public place for an illegal activity. Senior members of Victoria Police have told me that one way to deal with that situation would be to create an offence of loitering with intent to traffic or purchase a drug of dependence. That would be feasible from an operational perspective, and it is a proposition that is supported widely throughout the force and the community.

For a person to be arrested under the current drug laws quite detailed evidence is required to prove that the offence has taken place. However, if police faced with a group of people who may not have drugs in their possession but are obviously there to either purchase or distribute drugs were given a tool to prevent such

public gatherings for illegal activity, it would be an effective way to deal with the situation.

It may also be worth while exploring the possibility of having an associated offence of being found in a public place without lawful excuse. Such a proposal for a move-along type of law has been discussed widely in many circles. If the police intervene where people are congregating — they seem to congregate in shopping centres but are not shopping — the enforcement of such a provision would instil public confidence. It may be one way of generating discipline in people who are otherwise abusing the law, and it might be another way of getting out the message that people cannot take their chances lightly.

I have some closing remarks; I know many honourable members wish to make contributions and I understand that time is against us. This debate could go on considerably longer than anticipated.

The killer of this proposal and the reason it will not work lies in realistic research. In Springvale, which is the proposed venue for one of the facilities, 10 000 people who came to the attention of Springvale police for drug-related offences were surveyed on their drug habits over a three-year period. It was remarkable to ascertain that of those 10 000 people only 22 per cent had some form of permanent residence in the Springvale area. That suggests that people were travelling to an area well known for purchasing drugs. If Springvale had an injecting facility — a place where drugs could not only be purchased but also injected — I suspect that percentage and the number of people going to the area would increase quite dramatically.

Associated research conducted by Victoria Police shows that of the 317 people surveyed in the Melbourne central business district — another area where one of the facilities is proposed — there was general, widespread acceptance that 80 per cent of the users would avail themselves of an injecting facility if one were available. However, only 20 per cent of those surveyed would use the facility if it were set up in conjunction with rehabilitation and counselling programs. The policy dictates that it would be imperative for people attending such a facility to undergo those specific programs. If 80 per cent of the people the facilities are trying to attract are saying they would not go there because of the regime the government has promoted, the practicality of the proposal is certainly defeated.

Honourable members should consider this: the time from when an addict purchases heroin to the time the heroin is in the addict's veins is around 3 minutes. That is an average; sometimes it is less, sometimes it is a little more, but the research clearly demonstrates that. There is no way any reasonable interpretation of the practicality of the bill would result in the expectation that an addict who has just purchased heroin in Dandenong would drive 15 minutes to Springvale to use such a facility. Unfortunately addicts have dependencies which necessitate some physical effects in the short term. They purchase the drugs; they want to get them in their veins as soon as possible. That is the key issue that ensures the facilities are of no value in trying to get the problem off our streets.

Further debate and consideration from all sides should be given to the proposal of having a heroin trial — and certainly it is acknowledged that it is a health problem — whereby the addict's dependency is treated under a course of prescription or state-supplied heroin in conjunction with appropriate counselling, rehabilitation and support services in a controlled environment. At least that should be given a chance and its success or otherwise monitored before other alternatives are considered. A facility as proposed in the bill whereby the substance to be used in the facility is obtained illegally or the funds used to obtain the substance are obtained illegally provides no solutions. It is disappointing that the government has not given further consideration to a policy that has been widely regarded by the Liberal Party for some time. It is equally disappointing that the government has lampooned the opposition for not supporting the bill as the be-all and end-all of the government's drug strategy and has criticised the opposition's policy, 'A safer way', which was universally received by the community.

The bill will not do one practical thing to stem the tide of drugs, to remove them from the streets or provide appropriate, responsive and dedicated support services to the people most affected by them. I do not support the bill; the opposition does not support the bill. The reasons I and my colleagues have stated certainly justify its defeat.

Hon. G. B. ASHMAN (Koonung) — This debate is one of the most significant this chamber has dealt with. It is one of the most difficult issues the community has to face and there is no simple solution to the problems honourable members are addressing. This year over 300 people will die as the result of drug overdose, a figure that will probably match the road toll. However, unlike the road safety issues that have been dealt with over the years where significant success has been achieved, for which the state is recognised internationally, no such program for drug addiction and prevention of drug overdose exists.

It does not matter where one looks in the world — whether it is the United States, the United Kingdom, Canada, Europe, Asia — there are no solutions. There is no blueprint about which one can say, 'That works. We will now implement that in Victoria'. Everyone is searching for the solution. The government has brought forward a proposal for supervised injecting rooms. In isolation, such rooms are not a solution. The drug problem requires a multifaceted approach. Ideally, it should be approached in a tripartite, non-political way. Any proposal needs the support of the Parliament, and that should be achieved across party lines. That is where this piece of legislation fails.

The government introduced the bill without any prior consultation with the opposition parties. The solution honourable members are looking for is not a 1-year solution, a 5-year solution, or a 10-year solution; we are looking for a 20 to 50-year program to address the drug problem. It may be heroin today, but it has been amphetamines and a number of designer drugs. I am quite certain that in 5 or 10 years the main drug of addiction will not be heroin; it will be some new designer drug, perhaps a heroin derivative or a heroin cocktail. That is not known. However, it is known that without a fully developed and fully integrated program, the drug problem in our community will continue to develop and grow. The injection rooms are only a very small component of addressing the problem. In the right circumstances they would provide some benefits but not to the extent that they would significantly reduce the death toll or the level of addiction.

A number of triggers or factors lead to addictive behaviour, and more research needs to be conducted on them. The factors are not a great deal different from those applying to alcohol or tobacco addictions. Many of the triggers have a common base and can be identified quite early. It is now known from research that some of those triggers show up in children as early as preschool age, are reasonably easy to identify in primary school children and are clearly evident in secondary school students.

Frequently they are matters of low esteem, social dysfunction within the family, a disrupted family life and mental health problems. Those issues tend to lead to high risk taking and antisocial behaviour. We know drug addiction is not a socioeconomic identifier; it occurs across society, from low to high-income families and it is more prevalent in single-parent families or families that have had disruption.

The bill makes a clear distinction between licit and illicit drugs. When discussing drug addiction and the means of combating it in the community we need to also address the use of legal drugs. More people are addicted to legal drugs than to illegal drugs. Drug-taking should be addressed as a health problem. There is a substantial criminal element involved in the supply of drugs, but people who are addicted to drugs have a health problem. That should be part of the debate. The house should be debating how society can manage drugs as a the health problem.

We should learn from the anti-smoking campaigns that have been conducted. They are regarded as extremely successful and are being implemented overseas. Victoria has a great store of knowledge about tobacco and alcohol addiction and it should draw on that to combat illicit and licit drug use. Marijuana, amphetamines, heroin and cocaine are some of the drugs that need to be addressed. Safe injecting rooms respond only to the use of heroin, which is a significant mistake. We require a comprehensive program that addresses the needs of the addicts at the time of use and also educates young people from an early age. It should be a program that continues throughout life and teaches people the dangers and risks associated with drug abuse.

We need extensive rehabilitation programs. There is no point having a rehabilitation program that has a waiting list. Drug-addicted persons looking to break away from their habit need instant support. If they declare that they want to go cold turkey to get off drugs, regardless of the drugs, the support system should be such that we can admit them to a facility immediately and commence treatment immediately. It cannot be in a week or a month's time because by then they will have moved on and be in a different cycle. The mental attitude necessary to commence detoxification will have been lost.

Many of the people who suffer from drug addiction have a dual psychosis. Not so long ago the parents of a 25-year old person came to my office. Their son was bipolar and had been identified as such 10 to 15 years earlier, and he also had significant alcohol and heroin problems. When I met his parents he had been hospitalised three times in the previous week for drug overdoses. Because he was old enough to do so, on each occasion he had discharged himself from the hospital. There was no legal mechanism for keeping that young person within the hospital system for his own protection, which was clearly what was required.

On three occasions he had declared to his parents that he would kill himself and described how it would be done — with a bottle of Scotch and a heavy shot of heroin. He almost succeeded on the three occasions. Sadly, before we could find a place for this young

person, he succeeded on the fourth try. We made many phone calls over a 24-hour period to find a facility to accept this young man. He was clearly in need of help and, by his own actions, he was saying, 'I want help!' We were not able to find a facility to accept him and he took his own life in tragic circumstances.

That is one of hundreds of stories. It is not a one-off story. It is not unique, but it is one we must address. I had hoped we would have started to address the problem through this legislation, but it does not go to the nub of the challenge before us.

Drug addiction leads to high levels of crime in the community as addicts seek to support their habit. I wonder if we should not be having a broader debate about prescription heroin. We must decide whether, as a community, we are ready to move to that point. The legislation will be rejected, but it should not be the end of the issue because it has generated widespread community debate. There is now much better community understanding of the problem. I hope the debate can be broadened and developed so that it is non-political and focuses on how we can address and resolve the challenge before us.

We know that two-thirds of heroin overdose victims die at home or in a hotel or motel and that a third die in public places. I suspect the number of overdoses occurring in public places is significantly higher than the numbers reflected in the statistics and that the deaths are probably reduced to a large extent for street addicts because if they go down on the street there is some help around. Help is not available at home or in a hotel or motel or some other private location.

The problem I have with the injecting room proposal is that it will create a honey-pot effect. I have no doubt the introduction of five injecting rooms throughout Melbourne would create five trading zones around those injecting rooms.

The available evidence shows that a heroin addict will not travel to an injecting room within 2 to 5 minutes of picking up a hit. That means 20 or 30 injecting rooms will be needed, which then becomes a different proposition. That brings me back to the point I made earlier — it is time to seriously consider the option of prescription heroin. Not only would that provide a pure grade and a known quantity to the addict; it would also remove the criminal element from the distribution cycle. That cannot in itself be a bad outcome. The insurance companies would be delighted by that course of action. It would reduce the number of home burglaries and the assaults and robberies that currently occur on the streets. That matter should be further pursued.

There must be tripartite parliamentary and broad community support for the manner in which the drug problem is addressed. There is no solution anywhere in the world. Everyone is still experimenting and seeking solutions. When someone finds a method that works it will be adopted worldwide overnight. We must be courageous and experiment with programs.

Although the government went to the election with the proposal for the injecting rooms, the detail has let us down badly. In many respects it would be better if the bill were withdrawn, but it will be defeated. I do not believe the package is a comprehensive way to address the problem. Five injecting rooms are not appropriate and there should be a more global approach to the problem.

The government should join the opposition parties in a working group to reach a tripartite agreement on how to proceed with the problem. Whatever is implemented today by a Labor government will have to be continued by any successive governments because it is probably a 50-year problem rather than a two or five-year problem. The types of drugs may change, but the community will still have to address the issue of drug addiction and abuse in the foreseeable future. Whatever program is implemented by the government of the day must have the support of the opposition parties to be assured that it will be ongoing. I am reluctant to reject the legislation but on balance I do not think the bill is adequate to meet the needs of today.

Hon. C. A. STRONG (Higinbotham) — I speak against the Drugs, Poisons and Controlled Substances (Injecting Facilities Trial) Bill, and in doing so I do not minimise the importance of the significant problem that must be faced. In many ways the community at large is in denial and does not want to know about the issue. People become interested only when someone close to them, such as a family member or a relation, becomes involved. Then they discover harm minimisation and say that something has to be done for their son, daughter or cousin. Apart from that they do not want to know.

One wonders how effective safe injecting rooms will be when one looks at the scale of the problem and the possible solutions. From what I have seen and read the so-called safe injecting rooms are not so much harm minimisation measures but visibility minimisation measures. They are put in place to clear areas. That does not attack the problem; it attacks only one of the symptoms. That is part of the denial; people want the

problem to go away. Nobody has come up with an effective solution.

Some years ago I watched a television series on the drug problem in Hong Kong — I believe it was on SBS. The film crew went to Hong Kong in the 1950s to record the drug problem over several decades. The crew went back every 10 years and built up a history showing how during that 40 years the police tried different ways to deal with the problem. It was fascinating that at the end of the series the Hong Kong police commissioner in charge of drugs, who had been in the same position for some 20 to 30 years — he was a young commissioner at the beginning of the series and was quite old and grey by its end — said that although they had tried everything the proportion of drug users had remained constant over that period.

I read some statistics in a newspaper a few days ago that showed how Victoria's drug problem was catching up with those of New South Wales, the rest of the nation and other countries in proportion to its population. The proportion of drug users is constant at about 10 per 1000. We were reaching that level and one hoped there would be an element of stability.

Many speakers have talked about statistics, facts and figures, but I do not see this as a problem of logic or of mathematical solutions based on facts and figures. Drug use is about the ability of an individual to say no. It is about role models and not following others and becoming involved. It is about individual responsibility. It is about whether an individual has the strength of character to say, 'Look at these people on drugs and look at what it has done to them; I don't want to be like that'. It is about individual responsibility, because drugs are a matter of individual choice. People choose to take drugs. We cannot stop them doing so; they do it of their own choice — and we must realise that. Anything we do at the end of the cycle is fundamentally too late. One must try to get in early to influence choice.

It is very much a supply-and-demand situation. Honourable members have looked at other people's solutions to the drug issue and their attempts to reduce the supply side of the equation, but that does not work because it is a demand-driven disease. The key issue is that individuals choose that demand. That is one reason for my strong opposition to safe injecting rooms and the harm minimisation approach, because it provides an excuse to the victim. It is saying in so many ways to the person who chooses to be a drug addict, 'Don't worry about this, we'll look after you. It's probably not your fault, anyway, that you choose to do this. It is because of something that happened in your family or your school days'. We provide a number of excuses for the reasons why people have chosen to take this course. We run around them and look after them and say, 'Sit down in this new, safe room and look after yourself'.

We should be saying to people, 'Look what has happened to people who have made this choice. It is the end of their lives and the ruination of their families. They are living and dying on the streets. Don't make that choice'. We are sending the wrong signals because the issue is about individual choice, and we must provide incentives in education and make it clear to the friends of drug users that this is not a nice way to go.

It is important not to make it too easy for people who have made their choice, and that is why I believe this is very much the wrong approach. I strongly oppose the bill and will happily vote against it. In doing so I emphasise that I do not in any way minimise the problem or the necessity to keep trying to find solutions. However, those solutions rest with the individual because it is the individual who makes the decision. Do-gooders will not save them; they must save themselves. I will certainly vote against the bill.

Hon. C. A. FURLETTI (Templestowe) — I am pleased to contribute at the tail end of what has been a lengthy debate on significant legislation. Like the Honourable Cameron Boardman I, too, went back in history and revisited a debate that took place in this chamber in May 1996. Regrettably, government members who are in the chamber now were not here then. That debate on drugs took place after the Premier's Drug Advisory Council chaired by Dr Penington had tabled its report. At that time some issues arose, as did a number of clichés. In fact, they were more than clichés — they were truisms. At that time the drug advisory council concluded that there is no easy answer to the problem of drugs in the community. Time and again many speakers said that current laws did not work and a problem existed. It is obvious that four and a half years later the problem still exists. The laws do not work and there are still no easy answers.

In my contribution I shall concentrate on the legal difficulties that the bill presents, which are numerous. Time precludes me from dissecting the bill in the way I did for my research. Suffice it to say that in preparing my contribution I engaged in consultation across the board both within and outside my electorate, and I consulted with many Victorians. I participated in the organisation of a number of forums and raised the issue at numerous public meetings for opinion and feedback because this is a serious and complex problem faced by the community.

The issues are not simple and they are numerous. Like many other contributors to the debate, I agree that addicts are not best treated in jail. Users need to be warned of the dangers of the use of illicit drugs. Young people must be deterred in every way possible from experimenting with and from casual use of drugs. They must avoid peer pressure that encourages them to participate in the drug scene.

The core issue is that those who have developed a problem, for whatever reason, and want to break the addiction must be given every assistance and support to succeed in that objective. They deserve and require ongoing support to keep them off drugs after their initial extraction from the dreadful cycle in which they find themselves.

Before considering the detail of the bill I state that I fundamentally object to the establishment of the so-called safe injecting facilities because such facilities would send a message, firstly, that the government accepts defeat in the fight against drugs — I hope the government has not done so — and secondly, that the use of drugs in safe injecting facilities is not dangerous. We all know that is nonsense. The establishment of safe injecting rooms would indicate to would-be users that the use of drugs is not a crime if it takes place in injecting facilities. Indeed, the bill would afford immunity to those who use drugs in injecting facilities.

Fourthly, the message would seem to indicate that the casual use of drugs is acceptable to the community. From my consultation and the numerous letters I have received I can say that that is the wrong message. Victorians do not accept that that is the case in Victoria. More significantly, the bill does absolutely nothing to break the nexus between drug use and crime. The bill does not address it in any way, shape or form.

There is no doubt that the drugs issue is probably the single major social issue of our time and that it needs to be addressed. But unfortunately the government has gone about presenting the bill the wrong way. One could approach the way the bill has been prepared and tabled before Parliament in a cynical manner and say that the government really does not want the legislation to pass. If one considers the overriding force of commonwealth law one would have to consider that the legislation that has been introduced in this house would in the long term be struck out as invalid because it seriously contradicts — at least from what I could find in my research — three commonwealth acts of Parliament relating to drugs, to which I will subsequently refer.

The New South Wales and Australian Capital Territory parliaments have both passed legislation legalising heroin injecting trials, yet both trials have failed to see the light of day. Although those pieces of legislation are far more restrictive than the proposal and legislation before the house, they are yet to be implemented and put into effect.

I suspect that that would indicate to any rational thinking person that it is quite easy to pass legislation, but the implementation of this type of complex, social and legal purpose is not quite as simple as many would like to think. Therefore I again raise the question of whether the government did not consider the fact that its bill may end up in some degree of conflict with the commonwealth government and prove to be invalid. Alternatively, knowing that the opposition seriously objected to the presentation and content of the legislation and would reject it, did government members believe they had satisfied their pre-election commitment by introducing the bill and could then throw up their hands and say, ‘Well, we tried.’?

A cynic would say that the government had no intention of implementing its pre-election promises. However, we must assume the government is genuine. Therefore it is important to analyse the bill, which will be defeated in this house and probably will not resurface.

I endorse the opinion of other speakers who said that this should not be the end of the debate, but rather, the beginning. It would be a shame to waste the energy that has been generated through this debate. Had the government approached the issue in a more bipartisan manner, sought broader consultation with all parties and the Independents and waited for the tabling of both stages of the Penington report, I suspect the outcome may have been far more effective and received far greater support within the community.

It appears that something of a fraud has been perpetrated on the community. I refer honourable members to the definition of an approved injecting facility in clause 3 of the bill and to the manner in which the whole proposal has been marketed — I use that word advisedly — by the government as one for injecting facilities and injecting rooms. The truth is that although it has been sold as a facility where users of heroin and other drugs can inject in safety and under supervision, the reality is that the provisions of the bill, particularly the enabling provisions in proposed sections 80H, 80I and 80J, all refer to the use of drugs. In the principal act, the Drugs, Poisons and Controlled Substances Act, ‘use’ is defined as including smoking, inhaling the fumes of, or introducing a drug of

dependence into the body of a person. That goes well beyond injecting.

The other situation that has escaped the vast majority of the people of whom I have asked the question is that the bill is not restricted to the injection of heroin, but refers to any drug of dependence as defined in the principal act.

It needs to be placed on record very strongly that the government's proposal is to allow anyone to use any of the 220-odd drugs of dependence as listed in schedule 11 of the Drugs, Poisons and Controlled Substances Act — including cocaine, amphetamines and any other illicit drug listed in schedule 11. The government's proposal is that anyone could attend one of those facilities and use — that is, smoke, eat, inhale, inject, or in any other way introduce into the body — any one of those drugs. So while the injecting facilities have been marketed by the government as places where people could go to inject heroin safely, the government's proposals were very much drug dens in the true sense, where people could gather and use any of the more than 220 different drugs of dependence. That is one of my major objections to the bill. When I brought that to the attention of and enlightened a number of people who had some sympathy with the proposal, they quickly turned their minds away from supporting it.

The other significant issue is the lack of consideration by the government of the proposal. I refer in particular to proposed section 80H, which provides an indemnity for those in possession of small quantities of drugs as defined in the Drugs, Poisons and Controlled Substances Act 1981. That is significant because the principal act also contains a number of offences for people possessing drugs. A 'small quantity' of drugs is defined and reflected in the penalties for those in possession of drugs for personal use. In other words, they were not traffickers, because the quantity was relatively small; they were not dealing with commercial quantities.

The difficulty with that definition is that 1 gram of pure heroin is defined as a small quantity. It took me some time to find out how much damage 1 gram of heroin could do to a person. It was fortuitous that driving to work this morning I was listening to 3AW when an addict called Marcus was interviewed. To support his own use, Marcus sold heroin in Frankston in Mr Boardman's electorate. He said that 0.1 of a gram was a cap, a hit, and he sold each one for $50. That means 1 gram contains 10 hits.

The thought that occurs to those who analyse the proposal the government wishes the house to accept is that while it would not be illegal for a person to be in possession of drugs within the facility it would remain illegal for a person to be in possession of drugs outside that facility. Yet for a person to have 1 gram of heroin on his body, go into the so-called safe injecting facility and use enough heroin for a hit — which must be less than 1 gram or I assume on what I heard this morning he would not walk out — and having walked in with 1 gram, he would still have nine hits on him.

The question is whether the old honey-pot theory becomes a reality. Is it true that people will arrive at the facilities and be able to acquire drugs and use them? If not, the person who has walked in, injected and then walked out of the boundary of the facility is immediately committing a crime. That leads to all sorts of policing problems and issues about the boundaries and what protocols are used. Given that the facilities will be in different areas and that the bill provides that different rules will apply to each, how would one seek to police those problems that arise outside the facilities? Those are issues the government has clearly not considered, and yet it has introduced the bill before the house seeking support. The opposition is not in a position to provide that support, given the numerous flaws in the bill.

The question of town planning arises. It is currently a major issue in my electorate given the construction of high-density buildings on relatively small blocks of land. The bill places the power to approve the location of the facilities in the hands of the minister. Given that it is taken totally outside the ambit of the normal town planning scenarios and that the two houses of Parliament will be the ultimate deciders as to the policy and rules under which the facilities will operate, it is not difficult to imagine that this could become a place where de facto town planning appeals would be heard and residents could attend to plead their cases and seek to avoid the destruction of their amenity.

The issue of insurance and civil liability also arises. It has been indicated that the government will be a self-insurer — that is, the taxpayer will be the ultimate bearer of the costs of any claim. This is civil liability with respect to the supervision of the facility itself and it clearly extends beyond that. There is an incredible anomaly with which I fail to come to grips — that is, if a publican serves an intoxicated person a glass of alcohol, that publican is committing an offence. It has been held in the United States that if an individual came to my house and I plied him with drink and let him drive home I could be civilly liable. Yet the government would have us establish a facility where

drug takers are invited to attend to become intoxicated without any provision for what will happen after they have become intoxicated. There is no provision for anyone to supervise what happens later. If a drug taker hops into a car to drive home and kills somebody, it is easy to foresee a claim being made against the government as the ultimate operator of the facility, and yet that problem is not addressed in the bill.

In closing, I again refer to something of significance in the minister's second-reading speech — that is, the determination of where the facilities will be located. The minister said the location should be in close proximity — within a 5-minute walk — of the current scene, presumably where the drugs are acquired. Therefore, for the purpose of the exercise, close proximity is a 5-minute walk. In the same speech the minister said a proposed location will not be in close proximity to kindergartens, schools and other sensitive public facilities. If honourable members are to understand the consistency in this discussion, the minister is saying that it is not intended that safe injecting facilities will be within a 5-minute walk of schools, kindergartens and other sensitive public facilities, which is a nonsense.

This bill is badly presented, badly drafted and badly thought out. While the opposition is very much aware of the problems faced by our community in relation to the control of drugs, it must vote against the bill.

Hon. I. J. COVER (Geelong) — I rise to make a contribution to the Drugs, Poisons and Controlled Substances (Injecting Facilities Trial) Bill. In doing so I follow my colleague, the Honourable Carlo Furletti, and a number of speakers on this side of the house who have covered many of the issues presented by the bill and the whole question of drugs in our community. I commend those speakers on this side of the house who have preceded me today and in recent weeks as this debate has unfolded. The debate reached its conclusion in the other place in the first week of September, more than two months ago, and I believe all honourable members know the path we are going down. We are heading inevitably towards a conclusion which will see the opposition vote against the bill and put the proposal out of business at this time.

It is important that Parliament have the debate and that issues are canvassed because although certain honourable members may propose some answers to the problem honourable members are aware that nobody in this or the other house has all the answers. The opposition does not profess to have all the answers, either. Many questions have been posed because of the proposals contained in the bill. However, it is extremely difficult, if not impossible, to support the legislation.

Attempts have been made through debates in various committees and forums to address the issues and put the problem at the forefront of the minds of honourable members and the communities they represent. It is more than two months since the bill was debated in the other place. Given that in the other place the guillotine was applied to end the debate on, I think, 7 September, when nearly 30 Liberal Party members still awaited their opportunity to contribute, at least honourable members in this chamber have the opportunity of putting forward their views.

Among the honourable members unable to speak in that debate were the honourable members for Bellarine and South Barwon. Therefore, it is important that I have the opportunity to contribute. That fact exemplifies the relevance and importance of this house. Had the proposal put by the government to change the structure of this house been passed recently possibly no honourable member from either house could have spoken on behalf of the constituents of Geelong.

The honourable member for Bellarine in the other place, Garry Spry, was at the forefront of the issue in Geelong by conducting three public meetings on the Bellarine Peninsula. Each was well attended and presented an array of speakers, not the least of whom was the Honourable John Ross, who is acknowledged on all sides of Parliament as being an excellent contributor to the topic of how to address the problem of drugs in the community.

As has been noted by other honourable members, an unfortunate aspect of the debate has been that it has been politicised. As happened in other forums, Dr Ross appeared at the three forums and simply presented the facts. People came away from the meetings, having shared Dr Ross's knowledge, expertise and experience not only throughout Australia but internationally, with the view that the bill must be opposed as it fails to provide an answer — or, certainly, the answer. I pay tribute to the honourable member for Bellarine for holding the public meetings and being out among the community not only to present an overview of what the bill attempts to do but also to get feedback from the community.

That has been a hallmark of the manner in which the Liberal Party conducted itself throughout the community debate on the issue. Its members have attended and presented public forums to receive community feedback on how people felt about the bill. It was important that community consultation occurred.

In company with the honourable members for South Barwon and Bellarine I attended a public meeting held in Geelong on 17 May. I noted that the honourable member for Geelong in the other place also attended. That public meeting was presented by the Uniting Church under the auspices of the Wesley and South Geelong congregations. An array of speakers was headed by Bernie Geary, who is a member of the Victorian government's committee on drugs and of Archbishop Pell's drug advisory council, as well as being a director of programs for Jesuit Social Services and chairman of Banyule community legal service health centre and youth substance abuse service.

Dr Jim Rossiter, who is well known in the Geelong community for his work with and concerns for young people exposed to the drugs culture, also attended. The Reverend Dr Kevin Yelverton spoke on the drug situation and the way the community could address it, particularly in the areas of detoxification and rehabilitation.

That public meeting, which was attended by about 200 people, was enlightening. Then, and still, the City of Greater Geelong was not proposed as a site for an injecting facility, given that the five proposed areas are in the Melbourne metropolitan area. That fact was raised at the meeting not only by the members of the audience but also by the speakers. The chairman of the meeting made it clear that although it is acknowledged that the drug problem is found in Geelong, as it is throughout Australia and the world, there was no cause for Geelong people to entertain thoughts about the establishment of an injecting facility in Geelong.

Those attending the meeting did not support the proposed five facilities in Melbourne. There appeared to be consensus that the approach to tackling the issue had to be based on education and prevention. Detoxification and rehabilitation were portrayed as the keys to assist those who have fallen into drug and heroin use and abuse.

There were also discussions about enforcement and the role of the police in detecting and charging people for drug use and bringing them before the courts. The need for the courts to take a strong stance against traffickers in heroin in particular resonates with many people who have been innocent victims of the scourge of heroin by having their personal and private property infringed upon or burgled.

In 1997 when for the first time Dr David Penington's recommendations on drugs were discussed in this house I spoke about the personal experience of being burgled three times in six months. I spoke about an occasion when I was able to assist the police in not only the detection but also the apprehension of the offenders, who were later ascertained to be heroin addicts. They had broken into our house to gain property to sell to feed their habit. Although I sympathised with the position in which they found themselves, that sympathy was dissipated by the fact that my wife's and my home had been broken into and we had been burgled. It was not only the fact that our house had been broken into but that some of our personal property was stolen and never recovered that had a deep psychological impact on us, particularly my wife, given some of the items were very important to her.

In relating that story three years ago I told how the offenders went before the courts and were allowed to go. It would have been good had they had been released for detoxification or a rehabilitation program to assist them to get out of their addiction, but they were let go and subsequently reoffended in a much more serious way that resulted in the death of a man. I always think that man would still be alive today if the courts had dealt differently with that issue.

All honourable members acknowledge that drug use is a community problem, and the community has to do something to assist. I felt we assisted the police, who have to deal with such burglaries daily, by detecting the culprits and directing the police to them. The police subsequently apprehended and charged them. When the courts allowed those offenders to go free both my wife and I and the police felt let down. As I said, the offenders reoffended in a much more serious way.

I will briefly point to some other comments that have come to my attention. Throughout the consultation phase the Liberal Party held public meetings and invited written responses. My electorate office received many written responses and phone calls, and there were even discussions with people in the streets. I highlight one contribution that typifies a number of responses received by me and many of my colleagues. It comes from a group in Geelong called Relatives Against the Intake of Narcotics, which is known as RAIN. The personal experience of Jean and Bob Flowers, who head up the organisation, is far more compelling than mine.

Nothing I could say about my experience would approach what they have been through, given that they lost their daughter at the age of 19 to a heroin overdose. Jean Flowers said that she believes her experience is worth considering in that context, and anyone would have to agree with that. Jean and Bob Flowers set up RAIN following the tragic loss of their daughter, in an attempt to help other people faced with the same

possibility. Their organisation takes approximately 500 phone calls a year from families who have relatives or friends with drug problems.

During the past year or so, because injecting rooms were being considered, RAIN asked callers whether they supported injecting rooms. In her letter of 13 May Jean Flowers states:

> … every caller disagrees with the principle.
>
> Our organisation has been providing a 24-hour support and referral service since 1984, both locally and statewide, working closely with other anti-drug agencies, all of whom also strongly oppose injecting rooms.

Jean continues:

> We do not believe that providing safe injecting rooms will in any way reduce the crime rate as addicts still need to fund the purchase of their supplies. Therefore, the large crime rate involving drugs would still be maintained.

She concludes:

> We do believe therefore that the right way to attack the drug problem is by greatly increasing the availability of detox and rehabilitation centres.
>
> Education, and increased (minimum) penalties for dealers should be considered — mandatory sentencing, confiscation of assets and immediate deportation of any dealer not holding Australian citizenship.

Those were some of the responses they received from people on behalf of family members or friends who had drug problems. As I said at the outset, the Flowers speak with plenty of knowledge, given their own tragic experience and the 16 years they have dedicated to RAIN. I commend them for the work they do. I also take serious note of the observations in their letter and their submission to Dr Penington's drug expert committee, in which they also talked about the need for detoxification, rehabilitation and education of our children as being essential.

In conclusion, like my colleagues I am opposed to the bill. Allowing people to inject heroin in the proposed facilities sends the wrong message to Victorians. That message condones rather than condemns the use of heroin. Alternative methods of fighting drugs should be examined and exhausted before proceeding with an experiment such as injecting rooms. I commend the work the Liberal Party has done in opposing injecting rooms and putting together a package of alternatives to approach the drugs issue in Victoria comprehensively and safely without having injecting rooms.

As I said at the outset, too many unanswered questions remain in the proposal before the house. I shall speak from a personal perspective. If I were to vote in favour of the legislation and my daughters aged 9 and 4 — I know other honourable members have young children too — were driving with me past such a facility, I would have difficulty answering questions they might pose. If they said, 'Dad, what goes on in there?', I would find it difficult to have to say, 'We let people go in there to inject illegal substances into their arms or other parts of their bodies'.

That personal example illustrates the dilemma of the many unanswered questions. Young people should be educated so that the prospect does not eventuate and such facilities are not introduced and condoned. On that note, I conclude my remarks and reiterate my opposition to the Drugs, Poisons and Controlled Substances (Injecting Facilities Trial) Bill.

Hon. G. W. JENNINGS (Melbourne) — I join the debate on this important piece of legislation, which the government introduced to establish a pilot project to study the potential benefits of supervised injecting facilities. A number of members of the opposition have used one of a number of 'c' words to describe the scourge of drugs in the community.

Before I go through the various 'c' words that may apply, I reiterate that I, too, share the view that drugs are a scourge in this and many other communities throughout the world. It is clearly a matter that must be addressed. We should not tolerate members of this and other societies being condemned to lives of addiction and unsatisfactory behaviour that affects not only their own lives but the lives of others.

I do not believe the 'c' word, condemn, is appropriate or relevant. Condemnation does not address the dimension of the problem under consideration. Courage is a word that should be considered. As legislators we must be courageous in looking for creative and compassionate solutions to the problems confronting society.

When thinking how I could best make a valuable contribution to the Parliament's consideration of the issue, I was tempted to suggest that rather than listening to me we shut up shop and walk down Bourke Street as a group, stand on the corner two blocks away and see how the drug trade and drug-taking behaviour impinges on the city.

The chaos that is generated on the street corner two blocks away from this Parliament is a clear demonstration that we as a government institution providing for public health and safety have not succeeded in addressing the drug scourge and the encroachment of drug-taking behaviour. Within two

blocks of Parliament are visible signs every single day of drug-taking behaviour. Drug trafficking is out of control. I think we have to be open, compassionate and creative in the way we address these issues.

It was in that light that the government undertook earlier this year to give a brief to an expert committee headed by Dr David Penington, to whom this community owes a great deal. This debate may not give full credit to the way Dr Penington and his committee have worked diligently to find a considered, compassionate and comprehensive regime of measures to deal with the scourge of drugs in the community, of which supervised injecting facilities are only one.

The debate in Parliament has been skewed in its entirety towards a discussion of supervised injecting facilities. Although that would be achieved by the legislation, it is only one component of the various government-supported initiatives clearly outlined by the Minister for Health in his second-reading speech to provide a more comprehensive response to the issue.

The recommendations of the first report of the task force, which led to the creation of the legislation, were superseded by a second report, which was released a few days ago. Many of the concerns expressed by the opposition in the debate about the skewing of issues, the lack of comprehensive assessment and alternative programs and the range of arguments used to send the bill down, have been clearly identified by the Minister for Health as being part of the government's agenda. As I said, they have been subsequently reported on by Dr Penington's task force within the past few days.

In his second-reading speech the minister said that in the past year there have been 359 heroin-related deaths in this state. My colleague in the other place the honourable member for Richmond outlined how that has impacted upon the municipalities of Yarra and Melbourne, in which a disproportionately high number of those deaths occurred. It is a significant issue for the community I represent. My community does not have the luxury of being removed physically or emotionally from the problem, and it has agonised about the way it should be addressed.

The minister's second-reading speech referred to a series of measures that have been funded in the budget. The dollar figures in no way relate to the effectiveness of drug-related services but are an indication of the financial support the government has provided. The government has provided $12 million to return student welfare coordinators to secondary colleges and a further $4 million for a new school nursing service for secondary schools. In 1995 the budget for drug treatment was only $24 million. This financial year the expenditure will be $53 million. Those figures do not include the 20 per cent a year increase in funding over the past three years for the methadone program.

The government recognises that there are major shortfalls in the treatment regime it inherited for detoxification and rehabilitation services. It is disappointing that during the period of the Kennett government the number of detoxification and rehabilitation beds was reduced from 258 in 1992 to 199 in 1998. When the opposition was considering the bill it recognised belatedly that detoxification and rehabilitation were significant elements in addressing the problem, so it joined with the government in acknowledging the importance of restoring those facilities. I am pleased there will be bipartisan support for increased funding for detoxification and rehabilitation services. When the bill is rejected by this place the funding the government had provided to establish the injecting room facilities will be allocated to support the government's comprehensive approach to this issue.

The government has always recognised the role of the Victoria Police in reducing drug trafficking and the prominent part it plays in prosecuting drug traffickers to reduce drug-related crime. It also plays a positive role in reducing supply in the first instance. The government provided an additional $42 million to the Victoria Police this financial year, as the second-reading speech indicates.

The government recognises that the issue should not be skewed to deal only with one particular proposal — supervised injecting facilities. Yet the coalition has determined to deal with that issue in isolation and has condemned it in isolation when in many ways the scrutiny of the program was available to Parliament. Clearly the bill is designed to enable ongoing scrutiny of the treatment regime and programs established within the injecting facilities framework. Rather than frightening the community about the possible impact the facilities may have, it is timely to remind the house that the bill's intention is to enable an 18-month trial program to allow for independent evaluation and to establish the legal framework for the Governor in Council approval process under which the Minister for Health would enable organisations to operate.

The government's intention was to introduce the facilities in only five municipalities. The government sought the cooperation and approval of five municipalities — namely, the City of Melbourne, the City of Yarra, the City of Port Phillip, the City of Maribyrnong and the City of Greater Dandenong. As

painful as the community response has been and despite the torture many of those communities have gone through daily, four out of the five communities were prepared to go the distance with the government and introduce supervised injecting facilities. The government included within the scope of the bill parliamentary scrutiny of the outline of the service agreements that would be applied to guide the operation of such facilities. That was done to ensure that Parliament could play a role in approving the appropriate operating regime for those centres.

The government clearly outlined its intention to adopt a scientific approach to measure the effectiveness of treatment for individual users of the service, the broader public health community and neighbourhood issues.

I will briefly refer to the service agreement to outline the scope of parliamentary scrutiny in the independent evaluation that would be required to assess each and every one of the facilities if and when they were approved. The agreement states that in assessing the achievement of the objectives of the trial the evaluation must include the effectiveness of the service in dealing with users of the facility, and in particular the total number of attendances to the facility on a monthly basis; the incidence of drug overdose among service uses; the number of referrals on a monthly basis for counselling or other social support and for detoxification or treatment; the results of treatment referrals where that data is available; and evidence, if attainable, of the incidence of hepatitis B, hepatitis C or HIV infections in clients on first testing and on any subsequent testing on three or six-monthly intervals.

The second objective refers to the impact of the injecting facility's operation on the surrounding community. The measures for testing the effectiveness include changes in the level of public nuisance associated with the operation of the centre; levels of concern about the extent of street trafficking of drugs in the vicinity of the centre; changes in street-injecting behaviour or incidents of public nuisance due to people under the influence of drugs; changes in public littering with syringes or needles; and the adequacy of the planning process.

The evaluators would also be required to undertake appropriate benchmarking surveys prior to the trial on relevant topics outlined previously and gather data and provide analysis regarding the operation of similar facilities interstate and overseas.

The role of the medical supervisor employed by the Department of Human Services would be to develop guidelines provider organisations must follow on matters that include the protection of the health and safety of staff and users; staff skill requirements; daily operating procedures, particularly relating to overdose management and disease control; and emergency procedures.

The medical supervisor who oversaw the operation of each of the centres would be a senior clinician employed by the Department of Human Services with authority under the Health Act and, as necessary, the Drugs, Poisons and Controlled Substances Act. The Department of Human Services would establish consultative arrangements to ensure that relevant municipalities, provider organisations, drug users and treatment and support providers were informed about and had input into the trial.

So far as possible the Minister for Health, in consultation with the relevant municipality, would be responsible for selecting the agency or organisation to take responsibility for the management of each trial site. Organisations with an interest in managing a trial site would be assessed using the following criteria: local support and acceptance from key stakeholders, including potential service users; demonstrated capacity to develop networks and linkages with support services likely to be associated with the facility; quality of the preliminary management plan and development strategies for the service; and their record of achievement in service provision.

The formal relationship between the Minister for Health, the municipalities and the service providers was a considered response from the government to the broader issues that had been identified by the task force and by the community through the consultation process. It was not, as alleged during the debate in this place, that the government was not prepared to adequately consider the role supervised facilities would play in a broader comprehensive treatment regime to deal with drug-related matters and drug-related crimes in the community. The government was committed to ensuring the most rigorous evaluation of how the program would work and to examining its impact not only on individual users but also on the community.

It cannot be alleged in this debate that the government shirked any of those issues. The second-reading speech, the bill and the minister's draft service agreements would be open to the scrutiny of both houses of Parliament and would provide for an effective operating veto by the Parliament that the operation of those facilities was the most responsible model.

I encourage the opposition in this place and the other place to consider the appropriate way forward. If

Parliament is concerned about important public policy matters and the implementation of important public health matters, this may be a model that may on reflection prove useful in providing for ongoing scrutiny in the effective, efficient, compassionate and safe provision of public health measures.

Opposition members draw a long bow when they say the debate has been politicised or that I have attempted to turn it into a political issue. I direct attention to the courage and passion people have shown about the issue and throw down a challenge to the opposition. I read an article by Tony Hewison, the former headmaster of St Michael's Grammar School, St Kilda, who wrote movingly in the *Age* of 22 July under the headline 'Condemned to death by Christian "principles"':

> Those of us who profess a Christian commitment must tackle the use of drugs from two closely related perspectives: the first as Christians; the second, infused by our Christian belief, as citizens.
>
> As Christian citizens, the truth is undeniable. First, despite some considerable success on the part of law enforcers, illegal drugs continue to flow into this country.
>
> …
>
> … if we have learnt anything, it is that the problem cannot be solved by law enforcement alone.
>
> … most of those who speak against supervised injection trials are those whose comfort zones are least invaded by the drug problem.
>
> … those most experienced with dealing with the problems in one-to-one situations, such as the police and ambulance workers, are most frequently well represented among those who recognise that so-called 'zero tolerance' and the use of the criminal justice system simply do not work.
>
> As citizens we are obliged to face the problem, acknowledge that as a society we are not solving it, and support measures that will at least be in line with reality.

He goes on to make the moving point that:

> It is Christian love that should drive each one of us to help those who suffer and to help rescue those lives. It is not surprising that it was the Sisters of Mercy and the Uniting Church who first offered to run injecting rooms in Sydney. The church cannot turn its back on the suffering on our streets.
>
> Injecting rooms should not be sterile hostile places, but warm comforting centres staffed by men and women who love, so that addicts will be attracted to them.
>
> …
>
> We have reached a point where those of us whose comfort zones are least invaded will not be able to continue to ignore the problem, or pontificate about the virtues of so-called 'zero tolerance'.

He concludes in a heartfelt and sincere way by saying that he seeks to:

> … live free of the fear of hearing of another past student whom we as a society have condemned to die because of our neglect and because we have put 'principles' before love.

I believe Tony Hewison is a courageous, compassionate and loving man. We should all take note that from an ethical and considered position he believes we do not have the luxury to sit back and reject proposals that have been designed in a considered and creative fashion to address urgent and pressing needs. He believes if lives can be saved and if the dangers that appear on the streets can be reduced for those who inject in a dangerous fashion and threaten their own lives or the lives of others on the streets, this small project can play a positive role in reducing that risk both to the life of a user and to members of the community. Tony Hewison is a well-respected member of the Christian community in Melbourne.

A number of other respected members of the community wrote an open letter to the *Herald Sun* on 24 July. They are hardly the rampant, irresponsible lefties the opposition may allege are the proponents of the trial. The authors of the open letter include the Honourable Justice Sally Brown, Professor Suzanne Cory, the Right Honourable Sir Zelman Cowen, Mr Brian Jamieson, Mr David Parkin, Dame Elisabeth Murdoch, Sir Gustav Nossal, Mr Michael Robinson and Dr Michael Sedgley. The letter states in part:

> We are all trying hard to create safer and more enriched lives for ourselves, our families and our community …
>
> …
>
> As a united community we should also look for better ways to prevent drug use, to help drug users even more, to assist police to identify and prosecute drug traffickers.
>
> …
>
> The proposed trial of supervised injecting facilities is another worthwhile attempt to improve community safety and save lives. … These facilities should allow drug users to access treatment, rehabilitation and other support services. These facilities must be located, as proposed, in places of high public drug use. They must, as proposed, be scientifically evaluated. Alone, they won't stop drug use. That is not the aim. But they will probably reduce risks to everyone. Importantly, they will very likely reduce the heroin death toll.

After considerable community support across the Melbourne metropolitan area, including significant leading members of the community, the Victorian community has urged the government to act as it did in introducing the legislation — that is, to pursue a scientifically supervised injecting facility trial in a rigorous way based on advice from the expert committee on drugs and with regard to the obligation the minister has outlined to appropriately evaluate the program within a developing, comprehensive regime of

treatment facilities and policing and law and order measures that the government has supported.

It is disappointing that this situation has occurred, and I believe it is because we have lacked the courage to deal with the issue. We have taken the path of least resistance. We have not been prepared, based on the advice and consultation that has taken place, to step up and be courageous in an attempt to save lives. It may be some time before we share the commitment and courage to undertake that endeavour.

I have attended many meetings in my local community, and I share the concerns of many people who live in fear of their lives because of the impact of drug-related activity in their neighbourhoods. I share their compassion fatigue in dealing with the issue. It is incumbent on the government, with regard to the way it proposed the facilities be established and monitored, to develop in users a sense of individual responsibility. A more secure neighbourhood would be created rather than a less secure one.

In the absence of the opportunity to have supervised injecting facilities, the good members of my electorate who are active in the Yarra drug forum are looking at ways their communities can take responsibility for drug-related behaviour in their streets. An essential part of the program they are developing is to insist that drug users take responsibility for their own lives and behaviour. The members of the forum aim to establish an adult relationship within the community where we do not give up on drug users on the basis that we assume that they are not capable of making a commitment to the community and ultimately themselves to rid themselves of their addiction and to play a useful and productive role in the community.

Part of the regime is to start looking at behaviour that is more responsible. By encouraging users to go to supervised injecting facilities rather than pandering to them a framework is provided to assist them to behave more responsibly. That is something we can all share in and concentrate on in delivering a positive result for the society we hope to create in Victoria.

I am disappointed that Parliament will lose the opportunity with the demise of the bill to show courage and compassion, and to show that we are a legislature that is prepared to look at creative but considered ways of addressing important public health concerns within the community. On this occasion the opportunity has been lost, but it will not be at the expense of the government's intention to deal with the scourge of drug use and to limit the chaotic behaviour that occurs in Victorian streets and neighbourhoods. The government will renew and reaffirm its commitment to address those issues in an appropriate way.

The government appreciates the work undertaken on its behalf and on the community's behalf by the expert drug committee. We thank Dr Penington, Mark Hamilton and others who have led the worthy exercise in addressing a significant public issue.

I take the opportunity one last time to encourage members opposite to reflect on those matters, and if they are not intending to support the government's legislation on this occasion I urge them to look deep into their hearts and their resourcefulness to join the government in appropriately addressing the problem of drugs, both as an individual and a public health matter. I urge all honourable members to support the bill.

Hon. K. M. SMITH (South Eastern) — It is 11.20 on a Tuesday night and I am the last speaker in this long-running and important debate. I have listened to honourable members on both sides of the house make their contributions in the true belief that the positions they and their parties have taken are the right ones. The opposition could never be accused of not having the courage of its convictions, and it showed that courage in saying it was not going to support the bill before Parliament tonight.

That view was not taken because of party-political expediency. It was taken on the basis of heavy consultation with the community across Victoria. We went to great lengths to give everybody the chance to make a contribution to the debate through their members of Parliament. Mr Jennings spoke about the importance of the debate. He did not talk about the hypocrisy of the Labor government in the debate in the lower house where it denied opposition members the opportunity to put forward their views. The bill was guillotined in the other house, and then came to this house on the basis that it was going to be knocked back anyway, so why should the government worry about allowing people to speak on it?

The proof of the importance of the upper house is what the debate is about now that it is concluding: honourable members have had the opportunity to express the views of their communities in disagreement with the government's position of forcing on the community five so-called safe injecting houses or heroin injecting rooms.

Mr Jennings referred to the municipalities of the City of Melbourne, the City of Yarra, the City of Port Phillip, the City of Maribyrnong and the City of Greater Dandenong having been chosen for these safe injecting

rooms and to four out of the five municipalities having supported injecting rooms being in their areas. What he neglected to say — and I am disappointed, because he tried to make an honest assessment of what had occurred — is that that was not as a result of an agreement by the people who lived in the municipalities but by an agreement made and accepted by Labor-controlled councils. That is exactly what they are.

When the opposition heard of the suspect polling that had been done in those municipalities, which supposedly had the numbers to say, 'Yes, it would be put through', it found that very few people had been asked and that the questions asked were so pointed that anybody — probably even I — would have supported them. Yet the government was prepared to run on that suspect polling, and that just was not good enough.

Mr Jennings also talked about the amount of money put in by the Labor government. I remind Mr Jennings that the previous Kennett government put in substantial amounts of money when it recognised that there was a drug problem. In fact, it was the first government to bring Dr Penington on board to look at the difficult drug situation in Victoria. It was not the Labor government but the Kennett government that implemented that report. The former government put in huge amounts of money. It provided at least $100 million for the establishment of the Turning the Tide program to address the problems facing schools and rehabilitation centres and to really address the problem at the coalface, where it needed to be addressed, not a bandaid measure such as the one put forward by the Labor government involving safe injecting houses.

Mr Jennings also spoke about the skewing of the issue by the opposition. The only skewing was the opposition's not looking at the issue in a political way but in a way that would save some lives. It believes putting in safe injecting rooms will not stop people killing themselves with overdoses and could well make the situation worse. Once the government imprimatur was on safe injecting rooms and on the use of drugs in those places there would have been a belief in the community that drugs were okay. There is no doubt that kids would have thought that.

Mr Jennings referred to the 359 deaths in the past 12 months that resulted from drug overdoses. What he did not say was that most of those deaths — in fact, the large majority — occurred in people's own homes and that very few occurred on the streets. According to the statistics that have been provided to the opposition, very few of the deaths would have been avoided by putting in safe injecting rooms. It may very well have encouraged some people to start using drugs because the government said it was okay. One could walk down Bourke Street and look at the drug dealing that is going on two blocks from here. It would not be any different.

Hon. D. G. Hadden interjected.

Hon. K. M. SMITH — How many of these safe injecting houses were you going to put in Melbourne? When people want to buy drugs and have hits, they want to do it straightaway. They do not want to have to go to a safe injecting house on the other side of the city or town or to another suburb; they want their hits very quickly and do not want to dillydally looking for somewhere to inject. You know that as well as I do, Ms Hadden.

Hon. D. G. Hadden interjected.

The DEPUTY PRESIDENT — Order! Through the Chair, Mr Smith!

Hon. K. M. SMITH — In the second-reading speech the minister said that in its policy the government was looking at four themes — firstly, preventing drug abuse; secondly, saving lives; thirdly, getting lives back on track; and fourthly, effectively policing the drug trade.

I do not believe setting up safe injecting rooms would overcome any of those problems. Instead of preventing drug abuse it would encourage drug abuse, because it would provide somewhere for people to go to inject drugs without being stopped. Saving lives is a possibility. Getting lives back on track? No. It would not get the lives of those people who do not want any help, any counselling, or any rehabilitation back on track. Something more is needed. Effectively policing the drug trade? The government is looking at setting up honey pots into which drug dealers could get to distribute drugs or in the general vicinity of which drug dealers could sell their drugs — uninterrupted, as far as the police are concerned.

I totally disagree with the proposal for safe injecting facilities. In the 12 years I have been a member of Parliament the drug issue has been probably one of the hardest to come up with any answer for. I would say that all members of the house feel the same way — that it is very hard to reach a conclusion about what should be done.

When Liberal Party members were in Geelong considering what they should do about the safe injecting facilities issue and made the decision to say no, they also made a decision that they would put

forward a policy that they believed would work. We did not just say no; we put a lot of time, effort and consideration into putting together something that is certainly not flash — it is certainly not one of Dr Penington's reports with a glossy cover and nice pictures — but is a basic framework that can be built on to try to do something about combating drugs. We believe it is a safer way. This small document of about 10 pages, entitled 'Combating drugs — a safer way', is the bare bones of what will be a very good policy. It will start putting things together and putting people's lives into order as far as drugs are concerned.

Honourable members do small things in their own electorates in their own way. I am pleased to be associated with a group called the Youth a Light Drug Forum, an umbrella group which has been set up in the Wonthaggi area and which I chair. It helps kids at risk in the local area. The group first took up with them because the kids used to sit outside the bakehouse in Wonthaggi and drive the shopkeepers, the neighbours, and the old ladies mad with their swearing, fighting, drinking and all the things that went on — I am talking about kids between about 12 and 18 years of age.

Group members invited them to come into my electorate office, where we sat and talked to them a little about how things were going and what it was all about. There is now a group of kids we call Wonni Youth, who are the Wonni, or Wonthaggi, kids. The group now has about 180 kids on its books. It holds meetings in my office every Tuesday night, when somewhere between 30 and 40 kids sit in the office. The group members provide them with drinks or other bits and pieces and meet with them for a couple of hours.

We have formed them into their own committee and they have started to make decisions on behalf of the other kids. Honourable members need to understand that this is related to the discussion about drugs because the Youth a Light forum is looking at some alternatives to give the kids direction rather than allowing them to just sit aimlessly on chairs outside the bakehouse and drink the amount of grog they were drinking and shooting up as some of them were doing.

We have had youth suicide forums, and the degree of interest shown by the kids and their parents was quite surprising. The Melbourne Football Club's Here for Life group has talked to the kids and gone to the schools. The kids have organised and run discos themselves, which has been terrific. We have had bus trips to the big smoke. For kids from Wonthaggi coming up to the big smoke of Melbourne is worth while. We have barbecues, karaoke nights and country music festivals to raise funds for the kids. They contribute their time and effort to ensuring this works properly.

Wayne Gardner has come down to address the kids and has agreed to be the patron of Youth a Light and Wonni Youth. People are starting to sit up and take a bit of notice. They have met with the Premier and with ministers. They have had lawyers come and see them and talk to them about their rights and give them some advice and direction in their lives. They have visited Parliament and organised visits to the Freeza dances. They organise their own buses. This is giving them an interest in their own community and in the direction they are heading.

They have been in Walk for Life fundraising events. That is terrific because these are 24-hour walking events, and these kids never took much interest in anything apart from who would most annoy the old ladies on the Wonthaggi streets. Nearly every Saturday morning they run street barbecues and raise a few bucks to go into the funds they are building up.

Honourable members are probably asking what they are building up funds for. We have acquired a shed that was an indoor cricket centre. We worked in conjunction with Davey House Family Resource Centre, the counselling service attached to the Wonthaggi and District Hospital. The hospital was prepared to put almost $130 000 into buying this old shed. It is a kids' shed, somewhere for them to go — it is their drop-in centre, their hang-out centre. We are about to begin some works with the funds they have raised over the past couple of years. We want to build some cooling-down rooms and meeting rooms for them as well as facilities such as a gymnasium. The facilities will be built within what will be called the Shed. That will mean the kids will have somewhere to go and something they can call their own. It will be something they control because the committee of management comprises kids in the area. It is a great idea, and other honourable members may think it is a good enough idea to do it themselves.

Following the meetings we had with Wonni Youth and Youth a Light we called a drug forum together because the kids were concerned about the amount of drugs being used in the area. Wonthaggi has a drug problem, as do all areas. Grog is probably the biggest problem, but heroin was becoming a large issue. Some of the kids involved in the group knew kids who were using heroin.

One lass who came to us had moved from smoking $100 worth of marijuana a day to give her a bit of a hit

to other things including heroin. That was costing her a lot of money. This lass started smoking marijuana when she was 10 years of age, she moved into heroin at 13 and was doing anything, including prostituting herself at that age, to try to raise enough money. She had stolen, she had robbed people and done all sorts of things, but she was a terrific kid. Her grandmother was of great assistance in trying to put her back on track.

Given the way she was going, this kid was reaching a stage where she was due to kill herself with the amount of drugs she was putting into her body. This girl still smokes a little bit of pot, but she is off the heroin. Through her we have been able to locate a number of people who were selling heroin. There are some scum down there, people who were prepared to give heroin to kids still going to primary school by injecting it into their arms. These people are the pits. Some of them have suffered since because kids down there do not look too kindly on people who want to inject drugs into the arms of little school kids.

Dr John Ross and Dr Joe Santamaria spoke at the drug forum. They addressed about 150 people who attended the forum at the Wonthaggi Workmen's Club and gave a marvellous address for nearly 3 hours. They talked about things in a non-political and non-judgmental way, but it made a lot of people think about the problems of all sorts of drugs. Dr Ross and Dr Santamaria spoke about their visits overseas and it was interesting to hear of the experience from overseas, which did not always gel with other things told to us about safe injecting rooms.

We set up this drug forum and got police and ambulance crews involved as well as youth workers, drug and alcohol counsellors, doctors, lawyers, nurses, and school principals. The kids come along and are part of a forum which meets fortnightly in my office. The way it has started to work has been excellent because we have also formed alliances with other health professionals from the Bass Coast and South Gippsland areas. We are working extremely closely with those people.

We conducted surveys through all of our schools asking kids about their drug and alcohol habits. We asked them how often they drink, whether they have breakfast, what their interaction with their parents is like, and the type of sport they would like to participate in but cannot. Kids in grades 5 and 6 in the primary schools and years 7, 8 and 9 participated in putting this survey together. However, drugs are still a problem and alcohol is one of the major problems. The survey we have done only confirms the difficulties people, particularly the kids, experience outside.

We have set up a number of alternative programs for the kids. What else are they going to do? What else will give them the sort of buzz or high that drugs do? What can we do for them? We have been working with an outreach service called the Ozgurus, which is the name of a racing car. The car is raced around places like Phillip Island and Sandown. It is operated by Kieran Davies who runs an outreach service and uses the car to get the kids involved and looking at alternatives. The Wonthaggi kids have been to two race meetings and helped work on the car. Mr Craige and I will be joining a rally next year which the kids will be servicing. The rally finishes at the Melbourne grand prix track.

The kids have also been involved in abseiling and potholing. Those are the sorts of things they want to do, things that give them an adrenaline rush. We also have people who are willing to take the kids out fishing or to play golf. These are things the kids have not tried before or, more probably, have not had the opportunity to become involved in.

The things we have put in place in Wonthaggi have been an outstanding success. A number of kids have gone into apprenticeships. We have worked with them and the employers. A lot of kids are going back to school. They had been kicked out of school and had not had a chance to complete their education. The group has worked closely with the schools in the area. Wonthaggi Secondary School gives kids their second chance, and retention rates there are increasing because we are getting to the kids before they go off the track and leave school.

But we have had failures. A couple of kids have been put in prison for serious crimes that have probably been brought about by drug use, and two or three have suicided in the years the program has been operating. That presented the opportunity for the group to bring in people to talk about suicide prevention programs that help people understand the problems faced by kids.

I am talking about those issues because the group has tried to address the problem. We have not said, 'Let's put in a safe injecting facility in Wonthaggi and everything will be all right'; we have said, 'Let's work with the kids'. We have had great support from Wonthaggi hospital. Its president, Clive Kilgour, and its chief executive officer until recently, Leigh Hammer, have given us financial, moral and staff support to help the kids. When we get the Shed up and running we will have even more support. Davey House, a counselling service provided by Wonthaggi Hospital, and Margaret Wheeler, who has been involved with us from the start when we set up Youth a Light, have been of invaluable help. The Wonthaggi Workmen's Club has always

made its premises and funds available. When we needed a few bucks for the kids or if they needed a bus to get into town, the club found the money and it raised funds to help the kids.

Lee Moran, who was involved with the group from the beginning, is an excellent country and western singer. She has published many albums and travelled around the world. Wonthaggi is lucky to have her as a citizen. Recently she won the $10 000 Tattersalls award for her work involving Youth a Light, and she immediately put the $10 000 into the Youth a Light bank account. She has helped us with our country music festival, which raises funds for kids in the area.

Peter Lempriere and Peter Walters are two of our youth workers. Liam Walsh managed to get funding for the Youth a Light initiative. He will be working hard with the kids when the Shed is up and running. There are many other members of the Youth a Light committee who deserve thanks. It is a great pleasure for me to chair that group and see the great work being done in the Wonthaggi community.

Two other people who have been fantastic are Neville Goodwin, my electorate officer, who is a terrific person who does not believe in saying no to people who are seeking help. He always makes sure that our contribution to the community is uppermost. Paula Bennett, my other electorate officer, does all the administrative work for the groups working in our community to try to save our kids from getting into drugs.

I have probably indulged myself by talking about Wonthaggi and the work we are doing there with young people, but only because we do not sit on our behinds in our offices and think others will save our kids. It is a matter of doing something ourselves and talking to the kids. The best way to talk to kids is to sit down and listen to them; listen to what they say, because you can learn so much. If we can listen to what they tell us and assist them on the way by giving them direction in their lives, maybe one of them will not be the next kid lying dead in the streets somewhere because he or she has taken drugs. It is important that we, as members of Parliament, recognise that we can do something in the community.

The opposition does not support the bill, and it has good reasons for its stance. It is not grandstanding, but it believes its document ‘Combating drugs — a safer way’ sets out the best way to address the problem of drugs in the community — not through encouraging but discouraging people from taking drugs and providing them with alternatives.

The Liberal Party does not support the proposed legislation, but the opposition is interested in doing something to address the problem of drugs in the community.

House divided on motion:

Ayes, 14

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

Noes, 28

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

Motion negatived.

MARINE (AMENDMENT) BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. C. C. BROAD (Minister for Ports).

BUILDING (LEGIONELLA) BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. J. M. MADDEN (Minister assisting the Minister for Planning).

ADJOURNMENT

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

That the house do now adjourn.

Police: strength

Hon. ANDREA COOTE (Monash) — I raise a matter for the attention of the Minister for Sport and Recreation, in his capacity as the representative of the Minister for Police and Emergency Services in another place. I was very interested this morning to hear Jon Faine on radio 3LO referring to a police bypass — not an ambulance bypass — where the police had to pass police stations because there were no police there to administer or look after some of the serious incidents that were occurring. In the last election campaign the ALP policy was to significantly increase police numbers.

A year out, it is my understanding that there has been no increase in police numbers. Indeed, the net result is in the vicinity of about two additional police. The Prahran police station is an excellent station and the police there do sensational work. However, there are considerable problems in metropolitan Melbourne and in my electorate.

I remind the house of the problems experienced in Chapel Street on Friday nights when many cars come from outside the electorate and just roll down that street being complete nuisances. I speak specifically about the Toorak Traders Association, which recently told me about incidents with the nightclubs in Toorak Road. People there cannot get the police to come and provide support. Residents in the vicinity are concerned. Cars and shops are being vandalised by people coming out of the nightclubs, and residents are threatened.

My question is: when will the minister significantly increase the number of police in the Prahran, Toorak and South Yarra areas so our constituents can enjoy the same level of safety as those in other areas of Victoria?

Blackwood special school outdoor education centre

Hon. D. G. HADDEN (Ballarat) — I raise with the Minister for Sport and Recreation the matter of Blackwood special school outdoor education centre in the heart of the Wombat State Forest. I had the pleasure of representing the Premier at the eighth annual Blackwood Super Ride last Friday, 17 November, and met the 150 young people who participated in a gruelling 43-kilometre mountain-bike ride through the very hilly Wombat State Forest.

The young people came from 17 special schools in and around metropolitan Melbourne and were spending three days at the Blackwood camp, being ably supported by the centre's committee members, 16 members of the armed forces including trainees from HMVS *Cerberus* and several members of the Victoria Police bike squad.

The Blackwood outdoor education centre has been operating for more than 25 years and has the tremendous support of the Blackwood community. The centre is used by both juniors and 17-year-olds for most of the year, and the opportunity that is provided to those students with disabilities is immeasurable, as is being given the chance to achieve beyond their wildest dreams.

The school building and facilities at the centre need upgrading, as does some of the wheelchair access around the camp, and the committee wishes to build an environmental interpretative centre for camp participants. I therefore ask the minister whether he can advise of any appropriate funding programs the Blackwood special school outdoor education centre can access.

Fishing: banded morwong

Hon. P. R. HALL (Gippsland) — I raise with the Minister for Energy and Resources a matter concerning the banded morwong fishery. The minister may recall that I raised matters associated with this fishery earlier this year. I now seek a report on exactly what has transpired with that fishery.

In particular I raise the plight of my constituent, Mr Ray Steedman of Lakes Entrance. Mr Steedman holds a commercial fishing licence and was actively involved in the banded morwong fishery prior to its temporary closure. Mr Steedman is highly critical of the consultation that was supposed — indeed, required by the act — to occur with the industry about the future of the fishery. Worse, he is now being told that if he wishes to apply to enter the fishery he is required to lodge an application fee of $3252. That fee is non-refundable, he has no guarantee of the success of his application for a permit and he has not been told what conditions might be attached to the permit.

As it has been declared a developing fishery permits can be cancelled at any time, so Mr Steedman is not too confident about handing over $3252. He wrote to the Director of Fisheries on 20 November, and I am happy to make a copy of the letter available to the minister tonight. I seek from the minister a report on the fishery and ask that she look into the specific issues raised by my constituent, Mr Steedman.

Somerville: road intersection

Hon. R. H. BOWDEN (South Eastern) — I seek the assistance of the Minister for Energy and Resources, as the representative in this house of the Minister for Transport. I refer to a particularly dangerous intersection at the intersection of Grant Road and Eramosa Road East. I am very familiar with that intersection because it is only 50 metres from my office.

The intersection is complex. It consists of two roundabouts at a point where five roads meet. It is particularly dangerous for traffic heading south on Grant Road. The traffic heading west on Eramosa Road has to give right of way to traffic leaving Grant Road, which has given rise to some difficult circumstances over recent years.

I suggest to the minister that attention to this dangerous and extremely complicated intersection is urgently needed. There is limited vision for traffic leaving Grant Road and there are right-of-way problems. The intersection also has a significant amount of pedestrian activity and there is high traffic volume on all the five roads involved. Expanding the access will cause a number of engineering problems, but I seek assistance with Grant Road in particular. I ask the Minister for Transport to investigate the high risks at the intersection, with particular attention to Grant Road heading south, and to take early measures to decrease those high risks.

Rail: Tottenham station

Hon. S. M. NGUYEN (Melbourne West) — I direct a matter to the Minister for Energy and Resources, representing the Minister for Transport in another place. Since the inception of the charter of service for the providers of public transport there has been a marked improvement in metropolitan rail services. Many local train users testify to that.

However, there are still areas which can be and need to be improved. One is Tottenham station on the St Albans line. The users of that station have approached my office and commented on the inadequate parking facility and the generally poor appearance of the station and its immediate surrounds. I ask the minister to investigate the possibility of Bayside Trains and the department doing a feasibility study on upgrading facilities at the Tottenham station.

Public transport: seniors concessions

Hon. E. J. POWELL (North Eastern) — I refer to the Minister for Small Business, representing the Minister for Community Services in another place, the obvious and acknowledged inequity facing my constituents. While metropolitan seniors have long enjoyed travel concessions seven days a week, seniors in my electorate are expected to be placated with travel concessions for three days a week only — on Tuesdays, Wednesdays and Thursdays.

On 15 November 1999 I wrote to the Minister for Transport asking for a seven-day travel concession and also seeking a deputation from the minister to meet with the Goulburn Valley Association of Independent Retirees. My letter was handed on to two other ministers who said they were responsible. One letter and one adjournment debate later, still seeking a response, on 20 March 2000 I received a letter from the Minister for Community Services saying that the government was committed to examining the feasibility of two extra days — Monday and Friday — still not seven days. So one more letter, one more adjournment debate later, still seeking the outcome of the feasibility study and again requesting a deputation, I still had no answer.

On 23 August I wrote to the Premier outlining the long and frustrating saga and asking him for an answer. On 1 September I received a response from the Premier's chief of staff, which states:

> The Premier has asked me to thank you and reply to your letter dated 23 August 2000 concerning seniors card travel concessions and a request for a deputation of concerned senior citizens to meet with the responsible minister.
>
> As the matter you have raised is the portfolio responsibility of the Minister for Community Services, the Honourable Christine Campbell, MP, I have referred your letter to the minister's office with a request that she respond to you directly.

So around we go again. It has now been 12 months since I first raised the issue. The whole process has been a farce. I am sick of it, my seniors are sick of it and I want to give senior citizens in my electorate a final answer. I ask the minister to tell me whether country seniors will get the extra travel days and whether she will meet with the senior citizens, who have also been asking her for a deputation for the past 12 months.

Aboriginal Affairs Victoria News

Hon. K. M. SMITH (South Eastern) — I direct my question to the Minister for Small Business, who represents the Minister for Aboriginal Affairs in another place. This week I received my copy of *Aboriginal Affairs Victoria News*. I was very interested

to look through it to learn what is happening in Aboriginal affairs.

I noticed on page 1 a photograph of the minister, the Honourable Keith Hamilton, which I thought was appropriate. I then opened up the paper and on page 2 found another photograph of the minister smiling. I looked further down the page and there was another photograph of Minister Hamilton's happy, smiling face. On page 3 I found another photograph of the minister, this time very pleasantly shaking hands with an Aboriginal gent. Another photograph of the minister appeared on the back page.

I ask the Minister for Small Business to pass on to the Minister for Aboriginal Affairs my concern that he does not appear in the oval shaped photograph on the front page. I wondered where he was. I looked and could not see his face anywhere. I would like to know whether he was the photographer and whether he is moonlighting.

Industrial relations: reforms

Hon. M. T. LUCKINS (Waverley) — I refer the Minister for Industrial Relations to concerns raised by a company in my electorate, Quebec Transport, relating to the Fair Employment Bill. Mr Michael Donaldson wrote to me on 8 November expressing his concerns about the bill, particularly his calculation that the bill would lift prices by 37.55 per cent. Mr Donaldson met with representatives from the minister's office about the bill and raised his concerns about the impact on owner–drivers and other independent contractors.

The minister wrote to Mr Donaldson on 14 November and sought to allay his concerns, including the right of entry for union organisers. The letter states:

> Under the Fair Employment Bill authorised officers of a union will be able to enter a workplace where there is a suspected breach of the fair employment legislation or of an industry sector order, only where they have a member in that workplace.

During the second-reading speech, I noted that — —

The PRESIDENT — Order! I have listened to enough of the honourable member's contribution. There is a rule of anticipation. The bill is listed for debate in the house. Because the bill is still on the notice paper, the honourable member will have the opportunity to ask the question during the debate on 6 March 2001.

Hon. M. A. Birrell — On a point of order, Mr President, Mrs Luckins mentioned to me part of the matter she raised. The matter on her mind, and on mine as well, concerns correspondence on the bill that was sent to a constituent. However, the correspondence was exchanged with the constituent before the bill was introduced.

Mrs Luckins is not raising a matter about the bill but about the correspondence. Therefore, I ask you, Mr President, to bear in mind — perhaps Mrs Luckins can provide further evidence in her comments — that she is raising concerns about the letter, not the bill. Clearly if it were about the bill, it would be out of order. This is not some kind of contrivance. She is concerned about the contents of the letter sent to her constituent and is seeking information about the letter not the bill.

The PRESIDENT — Order! I will continue to hear Mrs Luckins.

Hon. M. T. LUCKINS — I reiterate that the correspondence with the minister relates to union rights of entry. She states that union members and organisers can enter workplaces only when they have members in those workplaces. The second-reading speech presented to Parliament today states:

> Right of access for recognised organisations is given to inspect records with respect to compliance matters, or to converse with members or eligible members during their non-working time or meal breaks.

Proposed section 226(3)(c)(ii) of the bill also refers to workplaces being inspected by union officials if workers are eligible to become members of the organisation. My question is: did the minister deliberately mislead my constituent Mr Donaldson or has she misled the house?

The PRESIDENT — Order! I have to rule the matter out of order. I understand the point the honourable member is making, but there will be an opportunity on 6 March to pursue the matter with the minister.

Yarra Ranges: mobile immunisation program

Hon. A. P. OLEXANDER (Silvan) — I seek the assistance of the Minister for Industrial Relations, who represents the Minister for Health in the other place. The minister will recall that around six months ago I referred to the mobile immunisation program, which is currently run by Southern Health Care and the Shire of Yarra Ranges. At the time I raised the fact that the program receives continuing federal government funding, but that funding had been withdrawn by the state government.

My issue at that time was whether the funding could be reinstated. I subsequently received an assurance from the Minister for Health that an extension of six months

would be given for the life of the program, but nothing beyond that. The program services the very elderly, the frail and infirm and very young children in the shire. I remind the minister, as I pointed out at the time, that approximately 18 000 citizens in the Yarra Ranges benefit from the program.

The community in the ranges is understandably apprehensive about the future beyond the six months extension of the program that now has only one or two months left to run. There has been no commitment from the state government for further funding. On 29 August I asked the minister to urgently review the state funding commitments and guarantee ongoing funding beyond the six-month extension. I have not, unfortunately, received a reply from the minister for just on three months now. I ask the minister to remind the health minister in the other place of the urgency of my request. Will she urge him to respond in all haste to my question of 29 August?

Women: small business finance

Hon. W. I. SMITH (Silvan) — I seek from the Minister for Small Business the results of discussions she had with financial institutions for business women to have greater access to funds.

Waverley Park

Hon. N. B. LUCAS (Eumemmerring) — I refer the Minister for Sport and Recreation to Waverley Park. On 30 August the minister made the following statement in this house:

> During discussions I asked the corporation about the options the AFL might consider if it has to subdivide the land in the future. I have not had a response on that issue but I have asked the corporation to contact me.

Has the minister had a response from the Urban Land Corporation to the request made by him on or before 30 August and, if he has, what was the nature of the reply?

Hockey Victoria

Hon. C. A. FURLETTI (Templestowe) — I refer the Minister for Sport and Recreation to Hockey Victoria. The minister is undoubtedly aware that Victorian hockey is administered by three separate incorporated entities — the men's association, the women's association and the junior association. They are controlled with separate administrations, separate financial accounts, et cetera.

I am sure the minister is aware that the government allocated $30 000 to Hockey Victoria to pursue the amalgamation of the three separate associations with established time frames for formal documentation — that is, the constitution and the like — to be drafted and settled by the end of March last. The amalgamation was to have been effected by 30 June last, almost five months ago. My information indicates that the $30 000 has been spent without results. I am concerned that this is not the first time, because in 1991 the Kirner government allocated $15 000, which would be considerably more than $30 000 in today's money — for the same purpose — that is, the amalgamation of the three hockey associations.

I draw the minister's attention to the fact that then, as now, nothing has happened. When will Victorian hockey clubs, volunteers, players and supporters enjoy one formal, centralised hockey entity encompassing senior and junior hockey, or have Victorian taxpayers been obliged to fund another wasteful consultation without any tangible result or outcome?

Residential tenancies: renter information

Hon. BILL FORWOOD (Templestowe) — I raise an issue with the Minister for Consumer Affairs. It goes, not surprisingly, to the question I asked her during question time today. It has been established that the minister or her department has sent over 250 000 copies of the renters guide widely around the state. It has also been established that the mailing list comprised people who have paid bonds and lodged them with the Residential Tenancies Bond Authority.

What is the head of power in either that act or any other act for that to occur? In other words, on what authority did the minister or her department access the names that have been established and held by the department for another purpose and use them for that purpose?

Responses

Hon. M. M. GOULD (Minister for Industrial Relations) — The Honourable Andrew Olexander referred to the attention of the Minister for Health in the other place mobile immunisation issues and reminded the minister about a matter he raised on 28 August. I will ask the minister to respond in the usual way.

Hon. C. C. BROAD (Minister for Energy and Resources) — The Honourable Peter Hall referred to the management of the banded morwong commercial fishery and provided correspondence from a constituent. I will seek responses to the matters he raised in the correspondence. Without going to all the matters raised in the correspondence, I can indicate that on 24 October I issued a ministerial direction that the

commercial banded morwong fishery be managed as a developing fishery for the next three years.

On the same day regulations were introduced setting a levy of $3000 for permits. They were the subject of a regulatory impact statement process and several meetings with banded morwong fishers. The Fisheries Co-Management Council and Seafood Industries Victoria were involved in the consultation process. I understand three fishers have applied for permits. Many matters have been raised in correspondences and I will ask for a reply to be prepared.

The Honourable Ron Bowden requested the Minister for Transport to urgently investigate the risks associated with the Grant Road and Eramosa Road East intersection and to take action to address those risks. I will refer that matter to the minister.

Hon. M. R. THOMSON (Minister for Small Business) — The Honourable Jeanette Powell raised for the attention of the Minister for Community Services the three-day travel concession for Seniors Card holders. She wants to know the outcome of a feasibility study for the extension of the concession to country seniors. She also asked whether the minister would meet with country seniors from her electorate. I will pass on her concerns to the minister who will respond in due course.

The Honourable Ken Smith raised a frivolous matter.

The Honourable Wendy Smith referred to the outcome of discussions concerning access to finance for women. Those discussions are continuing and we hope to have some options available shortly.

The Honourable Bill Forwood raised for my attention an issue he raised at question time today regarding the authority to issue a mail-out to tenants and landlords. Section 499(3)(a)(ii) provides that the minister has the authority to give written authority to provide information to people on the mailing list. That is the basis on which the information was provided.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — The Honourable Andrea Coote raised an issue for the attention of the Minister for Police and Emergency Services in the other place relating to policing issues in Prahran, Toorak and South Yarra. I will pass on that matter to the minister.

The Honourable Dianne Hadden referred to the upgrade of the Blackwood special school outdoor education centre. I suggest that representatives from the committee make contact either with the local government authority to see if there is an opportunity for making an application for community facilitator funding or contact Sport and Recreation Victoria for copies of the new funding guidelines.

The Honourable Neil Lucas referred to the Urban Land Corporation. I have not yet received a reply from the corporation.

The Honourable Carlo Furletti raised an issue about hockey. The government has announced previously the funding of various programs through the state sporting association funding program. Examples of that funding are a school support program for croquet of $10 000 over one year; a regional development program for handball of $12 000 over one year; a women's soccer project of $30 000 over two years; a strategic planning project for lacrosse of $12 000 over one year; a festival of motor sport for motorcycling of $41 000 over three years; research into umpire retention for cricket of $30 000 over two years; a tennis academy development program of $25 000 over one year; and a business practice export program for swimming of $30 000 over two years.

Although I do know the detail of the issue Mr Furletti raised about hockey I expect the figures he referred to involve increasing the levels of participation and do not necessarily relate to bringing the associations under one organisation. I am happy to seek that information from my department but I believe the allocation of funding was probably in relation to increasing the uptake of participants through the development of those state sporting associations.

Hon. C. A. Furletti interjected.

Hon. J. M. MADDEN — I will check to see if Mr Furletti is correct and will provide a response as soon as possible.

Motion agreed to.

House adjourned 12.26 a.m. (Wednesday).