PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-FOURTH PARLIAMENT

FIRST SESSION

Book 2

5 and 6 September 2000

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The Lieutenant-Governor

Professor ADRIENNE E. CLARKE, AO

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TUESDAY, 5 SEPTEMBER 2000

WEDNESDAY, 6 SEPTEMBER 2000

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Tuesday, 5 September 2000

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

ROYAL ASSENT

Message read advising royal assent to Courts and Tribunals Legislation (Further Amendment) Act.

DEPUTY CLERK

The PRESIDENT — Order! I welcome the Deputy Clerk back to the chamber, and I wish him a full recovery.

MAS: ROYAL COMMISSION

The PRESIDENT — Order! I advise the house that today Mr Speaker and I delivered a letter to Ms Cleary, secretary of the Metropolitan Ambulance Service royal commission. It states:

> Re: parliamentary immunity
>
> We have been handed a copy of your letter of 31 August 2000 to Mr Ian Killey, assistant secretary, Legal Branch of the Department of Premier and Cabinet. The letter indicates that a debate is to take place on 6 September in which it is suggested that the commissioner will deliver a ruling as to whether or not he proposes to permit cross-examination of past or present parliamentarians.
>
> We are surprised that, despite public comments apparently emanating from the commission, no approach has been made to the Presiding Officers from the commission on these issues up to the present time.
>
> The purpose of this letter is to address itself simply to the question of whether any examination can be made of a present or former member of Parliament in relation to any matter raised by the member in either house of the Parliament.
>
> It is our firm view that:
>
> 1. No such examination may take place;
>
> 2. The privilege attaching to such parliamentary proceedings as contained in the Bill of Rights is the privilege of the Parliament and not something that can be waived by individual members;
>
> 3. The Parliament itself has no power to permit its members or former members to waive any such privilege;
>
> 4. Any attempt to cross-examine a member of Parliament or a former member of Parliament in relation to any matter which arose in proceedings in either house would be a contempt of Parliament and a breach of privilege.
>
> Any questioning of members of Parliament or former members in relation to matters which did not arise during the course of parliamentary proceedings would be a matter for the commission.
>
> We trust that this clarifies the matter from the point of view of the Victorian Parliament.

The letter is signed by Mr Speaker and me.

I also add that the commission should take notice of the sitting dates listed for the house in respect of any current member who is required as a witness. Those dates should be avoided. The Parliament has a paramount right to the attendance and service of its members. That is spelt out at page 105 of the 22nd edition of *May*. That right is clearly recognised by the courts.

CONSTITUTION (AMENDMENT) BILL

Introduction and first reading

Received from Assembly.

Read first time.

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

> That the bill be printed and, by leave, the second reading be made an order of the day for later this day.

Leave refused.

Ordered to be printed and second reading to be made order of the day for next day.

QUESTIONS WITHOUT NOTICE

Electricity: tariff

Hon. PHILIP DAVIS (Gippsland) — Will the Minister for Energy and Resources confirm that the government has abandoned its election policy commitment to a uniform tariff for rural electricity customers?

Hon. C. C. BROAD (Minister for Energy and Resources) — I advise the house that in line with a number of debates in this house on this matter the government has a very clear commitment to all Victorians, in particular regional and rural customers, that as an absolute minimum they will be no worse off as a result of the introduction of full retail contestability. In fact, the government expects — and has made it clear in its submission to the Office of the Regulator-General — that there will be reductions in

network prices, and that as a result of competition in energy prices customers can expect to see reductions in prices.

Industrial relations: task force

Hon. G. D. ROMANES (Melbourne) — Will the Minister for Industrial Relations indicate whether she has received the final report of the independent industrial relations task force and, if so, will she indicate how the Bracks government intends to deal with its recommendations?

Hon. M. M. GOULD (Minister for Industrial Relations) — Earlier today I had the pleasure of formally accepting on behalf of the Bracks government the landmark report of the Victorian independent industrial relations task force chaired by Professor Ron McCallum. Honourable members will be aware that the impetus for the task force arose out of the Growing Victoria Together summit in March this year.

Since the creation of the task force in May, Professor McCallum and other task force members have worked tirelessly travelling round Victoria listening to workers from many different industries. The task force has also spoken to many employers and has received more than 200 submissions in the past two months. Unfortunately it did not receive a submission from the Victorian Leader of the Opposition or from federal Minister Reith. They were either too lazy to write a report or make a submission or did not care enough about Victorian workers who have been disadvantaged by the previous government's referral of industrial relations powers to the commonwealth.

The report stands out as a well considered, in depth look at the current industrial relations system as it applies in Victoria. The report makes 106 recommendations about possible future industrial relations arrangements. More than half of the recommendations were adopted unanimously, and almost all the other recommendations enjoyed majority support. The report clearly records the views of all the members of the task force in its recommendations and reflects the independence of the task force by identifying individual member comments with respect to those recommendations. All views are included in the report.

I have not had a chance to make a detailed examination of the recommendations, but it is clear the report has identified serious deficiencies in the Victorian industrial relations system. The Bracks government will carefully consider the task force's recommendations, and as part of that process I advise the house that the government will now conduct research to consider the economic impact of the various options contained in the report. That will ensure that prior to the government's adopting any of the recommendations it will be aware of the potential economic impact of any change on small businesses and employment in Victoria.

I again take the opportunity to thank individual members of the task force, and in particular Professor Ron McCallum, who worked tirelessly in bringing together a broad group of people who have worked constructively over the past few months. Professor McCallum's independence is demonstrated by the way he ensured that the issues raised by all members of the task force were incorporated in the report.

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

Liquor: licences

Hon. BILL FORWOOD (Templestowe) — It is stated at page XIV of the government's secret review on the 8 per cent limit on liquor licences that the removal of the 8 per cent limit will result in greater choice for consumers. Will the Minister for Small Business explain to the house how greater choice for consumers will flow from the closure of small independent liquor stores and country pubs and the transfer of market share to Coles and Woolworths?

Hon. M. R. THOMSON (Minister for Small Business) — I am pleased the government has been able to release the report into the liquor industry. The report recommends the retention of the 8 per cent limit on packaged liquor licences unless an alternative mechanism to ensure small business viability in the industry is maintained. The government is pleased to have the support of the Liquor Stores Association of Victoria for the report and its recommendations. A press release issued today by the President of the Liquor Stores Association of Victoria, Mr Peter Wilkinson, says that the association supports the recommendations of the review and goes on to state:

> Mr Wilkinson commended the Minister for Small Business … for ensuring that the review examined the fundamentals of the industry with all stakeholders having input.
>
> 'We know that Minister Thomson is under enormous pressure from the National Competition Council', said Mr Wilkinson, 'and to her credit, she has ensured small business a fair hearing'.
>
> …
>
> 'The LSAV is pleased that Minister Thomson has made provision for a consultative process. The association is fully committed to participate.

…

'… and endorses the recommendation which would outlaw any attempt to circumvent the 8 per cent cap with a general licence, as has occurred in recent times. This practice is an anomaly.

'The recommendation to link the retail packaged liquor industry to the proposed initiative of the commonwealth government in establishing a retail ombudsman and a retail code of conduct is definitely praiseworthy', said Mr Wilkinson.

'The recommendation to ensure harm minimisation will also have the full support of our members', said Mr Wilkinson.

It is obvious that the Liquor Stores Association o Victoria understands the intent. It is also obvious that the report will go out to consultation, and the government is looking forward to that proceeding.

Liquor: licences

Hon. T. C. THEOPHANOUS (Jika Jika) — My question to the Minister for Small Business also relates to the review of the packaged liquor industry. Given that the previous government and the former minister failed to address the issue, will the minister provide further detail of the outcome of the review of the 8 per cent cap on packaged liquor licences and contrast the position of the review with the information provided to the media by the opposition spokesperson on small business, the Honourable Bill Forwood?

The PRESIDENT — Order! In answering the question, I suggest the minister not go over the ground she has already covered.

Hon. M. R. THOMSON (Minister for Small Business) — As I said, the report was released on 4 September. In June 1999 the previous government was notified of the requirement to withdraw the 8 per cent cap on packaged liquor licences.

Hon. M. A. Birrell — To review it.

Hon. M. R. THOMSON — It did not review it; it did not do anything with it. The previous government did not go to the election with a policy position on it. All we can assume is that the previous government was waiting for an election it was expecting to win to remove the cap without consultation, which was its practice.

In contrast, there has been wide consultation in the development of the report, which recommends the retention of the 8 per cent cap unless there is an alternative mechanism to protect small businesses. The report also calls for the strengthening of the 8 per cent cap to ensure that people cannot get around general licences. The government will be introducing legislation into this place to ensure general licences do not become a way around that 8 per cent cap, and I look forward to the opposition's support for it.

I also referred to the press release from the Liquor Stores Association of Victoria and its reference to the inclusion of the federal code of conduct for the retail sector and also the recommendation to look at the effect of drinking habits.

The report is being put out for broader consultation. It will be available to everyone who runs a liquor store, a hotel, or a licensed grocery. People will have 28 days in which to put their views to the department on the report. There will be visits into regional Victoria and metropolitan Melbourne to ensure that people have a chance to put their views, and I look forward to that consultative process. I look forward to getting those views and to the involvement of the peak bodies in that review. Based on the consultative process and the recommendations of the review, we will then take the matter back up with the National Competition Council.

Industrial relations: task force

Hon. R. M. HALLAM (Western) — I refer the Minister for Industrial Relations to her evidence before the Public Accounts and Estimates Committee that the industrial relations research consultancy, which she just mentioned in the house and which was recently awarded to the Australian Centre of Industrial Relations Research and Training, was not subject to a tender process. Given that the $80 000 consultancy fee was a direct cost to the public purse, does the decision not to go to tender represent a departure from government policy?

Hon. M. M. GOULD (Minister for Industrial Relations) — During the Public Accounts and Estimates Committee hearing I was asked that question and I informed the committee that the research into Victorian workers not covered by federal awards had not gone to tender but was done under the auspices of the industrial relations task force. It was conducted by an organisation that had the required ability, capability and competency to undertake such research. The decision to let the contract to the Australian Centre of Industrial Relations Research and Training was a decision of the task force and I stand by that decision.

Youth: regional committees

Hon. E. C. CARBINES (Geelong) — Will the Minister for Youth Affairs inform the house how the

views and issues of young people in rural and regional Victoria are communicated to government?

Hon. J. M. MADDEN (Minister for Youth Affairs) — On Tuesday, 1 August I relaunched Victoria's regional youth committees (RYCs).

Honourable members interjecting.

Hon. J. M. MADDEN — I can understand the opposition's confusion over the mechanisms of consultation because the previous government had little interest in consulting with young people. I recently relaunched Victoria's youth committees following a review of the role, function and composition of the committees. There are 15 regional youth committees — 5 in metropolitan Melbourne and 10 in rural areas across the state — that play an important role in advising the government and me about youth needs and issues in local areas. The RYCs are made up of professionals from a variety of backgrounds, including the non-government sector, business, government departments, local community representatives and young people.

During the first half of this year I asked the Office for Youth to review the role, function and composition of the regional youth committees. The outcome of that review has led to the existing network of 15 regional youth committees being retained and strengthened, with regular meetings with me throughout the year; most importantly, the appointment of seven full-time youth liaison officers to resource the regional youth committees which were substantially under-resourced and so had little impact on the previous government's youth policy; an update of the RYCs' terms of reference following input from their chairs and membership; and a clear expectation, as reflected in the new terms of reference, of increased participation of young people in the committees' processes.

The RYCs are aligned with the regional structure of the Department of Education, Employment and Training, taking them out of the Department of Human Services following the government's policy commitment to give opportunities to young people in regional and rural Victoria.

Public sector: enterprise agreement

Hon. M. A. BIRRELL (East Yarra) — I refer the Minister for Industrial Relations to her comments last week in an answer to a question from her own backbench when she talked about the Community and Public Sector Union (CPSU) dispute settlement and said that the settlement allowed for a 3 per cent wage increase which is budget neutral. In response to a matter raised during the adjournment debate by my colleague, Mr Brideson, the minister repeated that argument — that it was 3 per cent and was budget neutral. Given that the media have widely reported that payments of 4 per cent and up to 6 per cent are included as part of the CPSU deal, will the minister confirm that all costs above the 3 per cent that she has asserted as part of the budget will have to be met by the relevant departments from within their existing budgets?

Hon. M. M. GOULD (Minister for Industrial Relations) — Last week in response to the Honourable Andrew Brideson's comments about media reports on my announcement in the house about the settlement of the Community and Public Sector Union (CPSU) enterprise bargaining agreement I indicated that it involved a 3 per cent wage increase and also involved an agreement to review the pay classification structure as set out in the current award, that details of a more transparent performance-based pay system would be distributed to employees, and that we had entered into an agreement with the CPSU and its members for a more cooperative and consultative approach to industrial relations. Part of the agreement was to reach further agreements down the track with individual departments.

That was the response I gave last week to a question asked and to an adjournment matter raised by colleagues of the Leader of the Opposition, and I stand by that response today. It was a 3 per cent pay increase with a performance-based payment, as I said — —

Hon. M. A. Birrell — On a point of order, Mr President, I am happy with the minister's preamble to her response, but she is answering a previous question and a previous matter raised on the adjournment. My question was: if it is true that the increase is 3 per cent and budget neutral, and given that the media has reported that a 4 per cent to 6 per cent increase is part of the deal, will departments have to pay for all payments made above the 3 per cent increase out of their budgets? My point of order is that the minister has not yet answered the question.

The PRESIDENT — Order! The minister will answer the question.

Hon. M. M. GOULD — I have not checked *Hansard*, but I recall saying to the Honourable Andrew Brideson that a performance-based payment would be met by each department.

Honourable members interjecting.

The PRESIDENT — Order! I ask the respective leaders of the house to desist from interjecting.

Port of Melbourne: performance

Hon. KAYE DARVENIZA (Melbourne West) — I refer the Minister for Ports to the fact that the port of Melbourne has an important role to play in maintaining a vibrant and growing Victorian economy. While the previous government — —

Honourable members interjecting.

The PRESIDENT — Order! We will leave the media moguls to one side. I ask the honourable member to continue with her question.

Hon. KAYE DARVENIZA — I am pleased that honourable members on the other side of the house have bothered to listen so carefully to my comments on the radio and to follow my performance in the press. I thank them very much for that.

The port of Melbourne has an important role to play in maintaining a vibrant and growing Victorian economy. Given that the previous government concentrated mainly on selling off the state's ports, such as those at Portland and Geelong, will the minister inform the house of the performance of the publicly owned port of Melbourne during 1999–2000?

Hon. C. C. BROAD (Minister for Ports) — The previous coalition government privatised the regional ports of Geelong and Portland, which the Honourable Geoff Craige, as the minister responsible for ports during the privatisation and sale of the Geelong port, will remember well. I am pleased to advise the house of the excellent trade results experienced by the publicly owned port of Melbourne during 1999–2000. The substantial increase in trade demonstrates the key role the port plays in serving Victoria's growing economy.

The port of Melbourne remains far and away Australia's busiest container port. During 1999–2000 the port experienced a boom year in trade. Containerised imports and exports improved by 14 per cent to a total container throughput of more than 1.2 million 20-foot equivalent units. That growth easily eclipses that of the previous 12 months, which stood at around 7 per cent. Forty-four million revenue tonnes of cargo moved through the port in the last financial year, which represented an increase of 5.7 per cent over the previous year. Melbourne remains the primary port of choice for Australian exporters and importers, and the principle centre for the Australian container-based cargo market.

Dry bulk traffic almost reached an impressive 2 million tonnes and experienced a growth of 13 per cent over the previous year. New motor vehicle imports also showed an exceptional growth rate of 17 per cent. Those results again emphasise Melbourne and Victoria's pre-eminence as a gateway for imports supplying the Australian market. The port's status as a hub with access to extensive road and rail connections has major significance for companies involved in international trade. Traders are able to avail themselves of those connections for the movement of cargo services as well as the services of more than 40 shipping lines. The excellent trade results for the port of Melbourne is good news for the whole state, reflecting the confidence of local and international companies in doing business in Victoria. It also emphasises the importance of the role of an efficient port in strengthening Victoria's role as the nation's manufacturing heartland.

Unlike the previous government, which focused on the sale and privatisation of public assets, the Bracks government is focusing on tangible outcomes for Victorian business that ensure the utilisation of port services as well as the growth of the whole state.

Minister for Industrial Relations: offices

Hon. D. McL. DAVIS (East Yarra) — Will the Minister for Industrial Relations confirm that since coming to office as a minister the total cost of her office renovations, departmental reorganisations and moving costs has exceeded $147 000?

Hon. M. M. GOULD (Minister for Industrial Relations) — I wish the honourable member would get a life! He has already asked the question and I have answered it. I also answered the question when I appeared before the Public Accounts and Estimates Committee. I offered the information to the deputy chairman of that committee, the Honourable Bill Forwood, who did not even want it, for goodness sake! I said to him, 'Do you want me to tell you how much the renovation of my office cost?'. He said, 'No, no', but the chairman, the honourable member for Geelong North in the other place, Peter Loney, wanted to know. I am quite happy to put the answer on the record once again. The honourable member is a bit thick. How many times does he have to be told?

Honourable members interjecting.

Hon. M. M. GOULD — As I have said previously to the house and to the Public Accounts and Estimates Committee, there was no previous minister for industrial relations and there was no minister's office. Temporary arrangements for the new office which involved some minor adjustments were made at 35 Spring Street at a cost of $20 000. Permanent

accommodation was then found at 1 Macarthur Street at a cost of $107 000.

Olympic Games: training

Hon. R. F. SMITH (Chelsea) — Will the Minister for Sport and Recreation advise the house of the benefits Victoria will derive from its hosting of Olympic Games soccer matches and pre-Olympic Games training?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — As I have said on a number of occasions, Sport and Recreation Victoria is responsible for coordinating the Olympic Games football to be conducted at the Melbourne Cricket Ground and for the development of Victoria's status as a pre-Olympic training competition destination for international teams participating in the Olympic Games. In hosting the Olympic Games football in Melbourne, Victoria will have the distinction of becoming a dual Olympic city — a rare accolade for any city and another reflection of the fact that Victoria is the place to be.

The flow-on economic benefit to Victoria of Olympic Games football is estimated to be around $40 million. Some 250 media representatives from around the world will be in Melbourne for the event, which will further showcase the state. That exposure will result in increased visitation from international guests and an increased add-on economic benefit. The government has also been actively working in consultation with the state's sporting associations and facility managers to promote Melbourne as a pre-Olympic training and competition destination.

Victoria will capitalise on the Olympic Games by hosting pre-Olympic training for more than 1500 overseas athletes. That number includes 81 teams representing 16 sports. Officials and members of the media will also be present. Regional Victoria will bear the fruit from that. A number of table tennis teams will train in Ballarat, Mildura and Bairnsdale and the bulk of the Ukrainian Olympic squad will train in Wodonga.

Members of the opposition will appreciate that a number of teams will train in Melbourne. They include Danish handball, Belarus fencing, British cycling and Malaysian badminton. Mr Birrell will appreciate that the French and Canadian synchronised swimming teams will train in Victoria, as will the American men's and women's basketball teams. The men's team, not unlike the opposition, is known as the dream team.

QUESTIONS ON NOTICE

Answers

Hon. M. M. GOULD (Minister for Industrial Relations) — I have an answer to question on notice no. 636.

Hon. C. C. BROAD (Minister for Energy and Resources) — I have an answer to question on notice no. 613.

ESSENTIAL SERVICES LEGISLATION (DISPUTE RESOLUTION) BILL

Introduction and first reading

Hon. C. C. BROAD (Minister for Energy and Resources) introduced a bill to amend the Electricity Industry Act 1993, the Gas Industry Act 1994, the Water Industry Act 1994, the Water Act 1989 and the Melbourne Water Corporation Act 1992 to provide for customer dispute resolution and for other purposes.

Read first time.

LOCAL GOVERNMENT (RESTORATION OF LOCAL DEMOCRACY TO MELTON) BILL

Introduction and first reading

Hon. C. C. BROAD (Minister for Energy and Resources) introduced a bill to amend the Local Government Act 1989 to provide for a general election of councillors for the Melton Shire Council on 13 October 2001 and for other purposes.

Read first time.

PAPERS

Laid on table by Clerk:

Crown Land (Reserves) Act 1978 — Minister's order of 25 August 2000 giving approval to granting of a lease at Brighton.

Drugs, Poisons and Controlled Substances Act 1981 — Standard for the Uniform Scheduling of Drugs and Poisons, No. 15, September 2000, together with Amendment No. 1 and Minister's Notice regarding the amendment, commencement and availability of the Poisons Code (three papers).

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

Ballarat Planning Scheme — Amendments C8, C26 and C32.

Bass Coast Planning Scheme — Amendment C1.

Brimbank Planning Scheme — Amendment C21.

Campaspe Planning Scheme — Amendment C12.

Casey Planning Scheme — Amendment C12.

Dandenong — Greater Dandenong Planning Scheme — Amendment C7.

East Gippsland Planning Scheme — Amendment C2.

Maroondah Planning Scheme — Amendment C4.

Mornington Peninsula Planning Scheme — Amendment C12 (Part 1).

Swan Hill Planning Scheme — Amendment C2.

Victoria Planning Scheme — Amendment VC8.

Yarra Planning Scheme — Amendment C14.

Statutory Rules under the following Acts of Parliament:

Drugs, Poisons and Controlled Substances Act 1981 — No. 85.

Electronic Transactions (Victoria) Act 2000 — No. 86.

Gas Safety Act 1997 — No. 83.

Melbourne City Link Act 1995 — No. 84.

Subordinate Legislation Act 1994 —

Ministers' exemption certificates under section 9(6) in respect of Statutory Rule Nos. 82 and 85.

Proclamation of His Excellency the Governor in Council fixing an operative date in respect of an Act.

Accident Compensation (Common Law and Benefits) Act 2000 — Section 4 — 1 September 2000 *(Gazette No. G35, 31 August 2000)*.

VICTIMS OF CRIME ASSISTANCE (AMENDMENT) BILL

Second reading

Debate resumed from 29 August; motion of Hon. M. R. THOMSON (Minister for Small Business).

Hon. C. A. FURLETTI (Templestowe) — I am pleased to speak on the Victims of Crime Assistance (Amendment) Bill, which the opposition does not oppose in this instance. This is another example of the government's smoke and mirrors tricks. The government introduced the legislation with great fanfare as it did the Workcover, freedom of information and other bills that implement its pre-election promises, but when one analyses the bill one sees that it barely reaches the standards the government indicated it would meet prior to its hoodwinking the Victorian public into voting it close to office and making arrangements with the Independents to secure government. The openness and transparency of government which the Labor Party committed to both before and after striking that arrangement have not come about.

The bill before the house today makes very few changes. In that sense we can be grateful that the government has substantially endorsed the amendments the previous government introduced by way of the rewriting of the Victims of Crime Assistance Act in 1996. This bill retains the suite of changes introduced by the previous government, including the fundamental premise that was the cornerstone of the 1996 amendments — that is, the requirement that victims be provided with assistance as soon as possible after the event and that they not be kept waiting and languishing, in some cases for a number of years.

The raft of initiatives remaining in the legislation includes the immediate referral of victims of crime to counselling and the provision of vouchers for payment for treatment. It also includes the advice that victims receive assistance almost immediately after the event to enable them not only to be made aware of their rights but also to access the enforcement of those rights, and immediate access to medical and other treatment. All those initiatives were introduced with a view to implementing the opinions of experts who indicated that immediacy of attention is far more effective than delayed compensation in restoring a victim's pride and confidence and rehabilitating and returning a victim to the community.

I was pleased to be part of the government which in 1996 considered that it was far more important to attend to victims' immediate needs than to give them handouts of money, as was the previous Labor government's wont.

The history of victims of crime legislation is now becoming fairly extensive. This type of legislation started under a Liberal government in 1972 with the introduction of the Criminal Injuries Compensation Act, which was rewritten in 1983. It is interesting to note that section 15 of that act contains a number of provisions that remain with us today. That groundbreaking legislation, introduced by a Liberal government in 1972, provided for compensation to be paid to a victim of crime for the actual expenses incurred by the victim. It also included compensation for pecuniary loss to the victim from incapacity to work; pecuniary loss to dependants as a result of the

death of a victim of crime; pecuniary loss for injury and reasonable expenses incurred; and provision for compensation for the pain and suffering of the victim. They were fairly groundbreaking and innovative provisions in those days. The lid was kept on what would today be seen as a fairly generous scheme because the amount of compensation was capped.

Hon. R. M. Hallam — And pain and suffering was included.

Hon. C. A. FURLETTI — In 1972 the maximum compensation payable to a victim of crime was $3000 and, as the Honourable Roger Hallam said, compensation for pain and suffering was not treated separately; it was included as part of the cap. That situation remained until 1981, when the maximum had been increased to some $10 000. In 1987 the amount of compensation had been increased to $20 000, but I understand it was still on the same basis. A statistic that needs to be put on the record is the fact that 88.5 per cent of the total amount awarded in 1986 related to pain and suffering. That is indicative of the manner in which this type of scheme can cause enormous blow-outs in budgets.

Every member of this chamber acknowledges and appreciates that every victim is a vulnerable and fragile member of society, whether he or she be a victim of crime, a traffic or workplace accident, a serious illness or even a sporting accident. Anybody who suffers injury, whether it be physical, psychological or emotional, deserves society's care and attention. However, as I indicated, there must be limits. In the 1972 legislation and scheme the then government saw the community providing a safety net for those who found themselves victims of violent crime, and it sought to provide some facility to enable those victims to receive medical treatment and other compensation, minimal though it was, for pecuniary loss and the like.

In 1995 the Auditor-General disclosed in his report that over the next five years compensation for victims of crime would cost some $630 million. That would have been the cost by this year of the scheme in place. The community would have seen the annual cost almost double from $100 million from 1995 to 2000 if the scheme had continued as it was. Another interesting figure to put on record, and I will refer to this later, is the fact that the average compensation award in 1995 was $5000. It is also worth noting that in 1995 more than half the claims that were lodged took more than two years to complete and a third took more than three years. Victims of crime were being left to languish awaiting the outcome, waiting for the tribunal to make an award. There was uncertainty, and it was obvious by 1995 that there was an urgent need to review the whole gamut of compensation for victims of crime. The previous government implemented that review.

It was also clear in 1995 that the scarce funds that were required by the community to cater for genuine cases of need were being channelled into some extraordinary claims. Towards the end of the previous scheme there were examples cited of quite unacceptable claims being made such as that of the New Zealand resident who came to Victoria to make a claim in respect of his deceased brother, even though they had not been in contact for some years. In another case a claim was made by the natural father of a deceased victim who had been adopted out at birth. There had been only one contact since that adoption and the father was held to be entitled to make a claim for compensation although the nexus between the victim and the claimant was minimal.

There are many instances of compensation being paid to people who had instigated and participated in pub brawls, street fights and the like, so there was an understandable reason for the system being used inappropriately and for such an enormous blow-out in the budget.

The 1996 act resulted in some 35 000 contacts being made with the victims assistance agency and some 17 000 people receiving full counselling, as compared to a previous statistic of some 8500 complainants, so it is obvious the reforms have been effective and efficient in servicing victims of crime.

All honourable members would be aware that in the current year's budget the government has allocated some $60 million over the next four years for pain and suffering compensation under the legislation. That amounts to $15 million per annum. I do not know how the government does its sums because on my calculation, if the average award for pain and suffering in 1995 of $5000 is any basis on which to make the argument, if one divides the $15 million by $5000, only about 3000 victims of crime will be compensated. Given the statistics I mentioned — that last year some 17 000 victims received counselling — I do not understand how the government will make up the shortfall.

My argument is probably substantiated by the minister's disclosure in the second-reading speech that before the changes in 1997, awards for compensation and costs amounted to between $40 million and $50 million each year, the comment being that it would be too heavy a burden to impose on the community today. That seems to substantiate my argument that the

amount necessary will far exceed the $15 million that has been allowed. Another telling point about the statement in the second-reading speech is that it indicates the philosophy of the government. In talking about the bill and victims of crime the minister says that regrettably the government cannot afford to turn back the clock, and states

> Unlike other state schemes, —

I can only assume the minister is talking about schemes such as Workcover or perhaps the Transport Accident Commission —

> we cannot look to an industry or a distinct sector of society to pay a higher premium to cover retrospective claims.

Does that not tell us something about the philosophy of the government? It acknowledges that the scheme has some inherent difficulties and that the number of claimants will exceed what the government has budgeted for, but I suppose time will tell just how good the government is at managing taxpayers' funds, as it did back in 1992.

In its 1996 revamp of the victims of crime assistance scheme the Kennett Liberal coalition government did more than simply introduce legislation to provide assistance to victims of crime. It had a far broader agenda than that: it introduced victim impact statements as part of the sentencing regime for courts and tribunals; it facilitated intervention orders and made them far more expeditiously available to victims in domestic disputes, in particular; and in section 86 of the Sentencing Act it introduced the power for courts exercising criminal jurisdictions to award compensation to victims against offenders who were before the court at the time and were convicted. It is pertinent to say, as did a County Court judge, that the power provides an immediate and expeditious way for a victim to obtain compensation from a perpetrator of an offence without having to go through a civil process. I will talk about the section 86 amendments later.

The previous government also recognised the breadth of categories of victims that arose because of the problem with which the legislation dealt, and a number of categories were established: primary, secondary and related. Primary victims are those who suffer an immediate impact as a result of a violent act — that is, they are the persons against whom the offences are generally perpetrated. Secondary victims include those who observe or are present at the commission of a crime and parents of child victims — in other words, those who are incidentally injured and suffered trauma. Related victims are those family members or otherwise related dependents or intimate associates of the primary victim.

Each of those categories has different rights and benefits. Suffice it to say that for primary victims the maximum benefit is $60 000, which includes compensation across the board for medical treatment and up to $20 000 for loss of income. Secondary victims have a limit of $50 000 for similar claims. Related victims also have a $50 000 limit, but that limit can be increased to a maximum of $100 000 where there are multiple claims by multiple related victims, and the $100 000 can be split between all related victims. That does not make provision for pain and suffering but it certainly makes provision for the most important of elements — that is, the provision of treatment, care and attention on an immediate basis to those who are most in need.

The bill extends some of the rights of related victims. It extends the period during which child victims of sexual abuse may make claims, extends the classes of victims eligible to claim, and makes procedural and administrative changes in respect of Victims of Crime Assistance Tribunal hearings. However, the main thrust of the change that the government intends to sell itself on is the introduction of pain and suffering payments. I will look at those in more detail shortly. From the Liberal Party's perspective the issues in these cases extend far beyond the payment of money, particularly the almost insulting amounts of money categorised in the bill. The Liberal Party believes the wellbeing of victims is an issue that goes beyond handouts and that this type of scheme should not be politicised.

It is the care and respect for the most vulnerable in the community that should remain the objective of such schemes. The previous government believed public funds should not be used to buy sorrow or compassion but to provide treatment, rehabilitation and restitution of respect.

What is unique in my time in this place is that for the first time reference in the bill is made to the purposes and objectives of the act. In my 30 years as a solicitor I have noted that the purpose or purposes have always been expressed, but for the first time this bill deals with the objectives of the act. The purpose of the principal act remains the same, which is to provide assistance to victims of crime, but there appears to be a need for the government to set out the objectives of the act, perhaps because it is unable to express what they are in other ways. Whatever the reason, to embed them in legislation is strange.

Clause 4 substitutes a proposed new section 1 of the principal act headed 'Purpose and objectives of Act', which includes:

> … a symbolic expression by the State of the community's sympathy and condolence for, and recognition of, significant adverse effects experienced or suffered by them as victims of crime; and
>
> … to allow victims of crime to have recourse to financial assistance under this Act where compensation for the injury cannot be obtained from the offender or other sources.

Clause 4(3) states:

> Awards of financial assistance … are not intended to reflect the level of compensation to which victims of crime may be entitled at common law or otherwise.

Clause 4(4) states:

> The scheme provided by this Act is intended to complement other services provided by government to victims of crime.

That appears to be the inclusion of part of a second-reading speech in legislation. If it is intended to promote the government's objectives, it would be more appropriate in the second-reading speech as an explanation rather than being committed to legislation. Nobody necessarily objects to the objectives of the act, but to enshrine them in the legislation is unusual.

The symbolism of the amounts becomes obvious in clause 7, which inserts proposed section 8A. Irrespective of what is created as a perception, it is the reality that will come home to roost. Proposed section 8A establishes four categories based not on the degree of pain and suffering, which could have been an appropriate indicator, but on the severity of the crime that was committed.

What is interesting, and takes away from public scrutiny, is that the four categories that are established can be varied or altered by regulation. The most serious category relates to offences such as aggravated rape, incest and other serious crimes where the special financial assistance, which relates only to primary victims, is set at a minimum of $3500 and a maximum of $7500.

I am advised by officers from the department that the second category would include armed robberies. The minimum amount of compensation is set at $1000 and the maximum is $2500. An armed robbery can be extremely traumatic. I extend sympathy to those who have gone through such circumstances. The third category, which includes crimes such as aggravated assault, has a minimum of $500 and a maximum of $1000. For the fourth category, the lowest level of crime, which includes common assault, the minimum is set at $100 with a maximum of $500.

What is not indicated is whether the awards will be as of right or whether the administration costs will far outweigh the amount of compensation. There is not information either in the legislation or in the second-reading speech about the basis on which these amounts were calculated. It is one thing to say these payments are symbolic, but we must reassure victims that the community cares. That can be better done by having the victims attended to expeditiously. In some instances I am certain that offering the amounts set out in the bill to people who have been the victims of dreadful crimes will not necessarily achieve the conclusion the government is trying to achieve. It could be perceived to be an insult, something I can understand happening.

I congratulate the government on expanding the Provisions of the Sentencing Act. Clause 21 extends the definition of 'injury' to include grief, distress or trauma or other significant adverse effect. The bill also extends the period within which an application for compensation can be made from within 6 months after conviction to within 12 months after conviction. The ability of victims to obtain expeditious and immediate remedy without the need for civil proceedings is a provision of which the previous government can be proud.

It is interesting to note that not much fanfare has been made of proposed section 85D, which allows the court to extend the time in which to bring an application if the court can be convinced it is in the interests of justice to do so. It is a means of extending a limitation period to give the victim the benefit in extraordinary circumstances. Clearly there is no limit to the amount of compensation that can be awarded under section 86; the court is exercising its jurisdiction in compensating for the injuries sustained. I am sure honourable members will have read about a substantial award recently made in the courts to children on that basis against a father who murdered his wife.

The amendments to the bill extend the manner in which applications can be made so that they no longer need to be made personally by a victim; they can be made on a victim's behalf. Quite appropriately, in determining compensation the court is obliged to take into account any other amounts the victim has received in the past. Any applications under this provision do not necessarily preclude a subsequent civil action for recovery of damages.

It should be noted, too, that in this type of application a finding of guilt is necessary. That is not the case in the Victims of Crime Assistance Act. It should also be put on the record that the state can apply to be compensated for payments it has made to a victim, and that amount can be recovered from the offender.

The government intends to review the scheme in three years time. I put the government on notice that the opposition will be closely monitoring the progress of the scheme. It will ensure that the changes are properly and appropriately administered and that victims of crime derive the benefits intended from the scheme, which is a minor variation to a very good scheme introduced by the previous government.

Hon. JENNY MIKAKOS (Jika Jika) — I have great pleasure in supporting the Victims of Crime Assistance (Amendment) Bill. It seeks to deliver on one of the government's pre-election commitments, which was to reinstate compensation for pain and suffering to victims of crime. Prior to the election the government committed $45 million over a three-year period. I am pleased that in this year's budget an amount of $60 million was allocated for the scheme, to be implemented over four financial years.

As honourable members are aware, compensation for pain and suffering was available for Victorian victims of crime from 1973 until 1 July 1997, when the Kennett government abolished that statutory entitlement. The bill is part of a package of assistance for victims of crime which includes counselling services particularly tailored to the specific needs of victims who reside in regional Victoria, those who are members of the Aboriginal or culturally and linguistically diverse communities, or those with physical or mental impairments.

Hon. M. T. Luckins — That was a Kennett government initiative.

Hon. JENNY MIKAKOS — The honourable member will have her turn later. The package extends beyond financial assistance to broaden the scope of counselling services available to victims of crime. I am pleased that the government consulted widely on the bill, and I commend the honourable member for Richmond in the other place on chairing a consultative committee that consulted with representatives of victims of crime associations and organisations, representatives from the centres against sexual assault and other organisations that had a particular interest in the legislation. The bill will be welcomed by the broader community, and in particular by victims of crime and their advocacy organisations.

The major thrust of the bill relates to the amendments to the Victims of Crime Assistance Act. The basic premise of the bill, which reinstates compensation for pain and suffering to victims of crime, is found in clause 4, which amends the objectives of the Victims of Crime Assistance Act. In the bill compensation for pain and suffering is referred to as special financial assistance.

I always have a great deal of interest in following the Honourable Carlo Furletti because his comments and the hollow arguments that the opposition puts forward about the government's legislation are a great source of amusement. Mr Furletti waxed lyrical about the fact that proposed new section 1 includes the government's objectives. I am pleased the government has included in the objectives of the principal act a statement that victims of crime who receive financial assistance receive it:

> … as a symbolic expression by the State of the community's sympathy and condolence for, and recognition of, significant adverse effects experienced or suffered by them as victims of crime …

That statement encapsulates the government's view that although no monetary amount can compensate a victim of crime for the injury, damage, loss, distress or humiliation suffered, it is important for the community to show symbolically that it has sympathy for the victim. It is an acknowledgment that the victim has suffered some loss or damage to his or her person. My personal view is that such an expression of public sympathy can assist victims of crime to recover from the trauma they have experienced and help them to get on with their lives as best they can.

Unlike the previous government, the Bracks government will not dictate to victims of crime what awards for special financial assistance can be used for. The former government justified the abolition of the statutory right to pain and suffering compensation by referring to a particular instance where a victim of crime used some of her compensation to purchase a red coat. That was extremely trivial and made a mockery of the pain and suffering of past and present victims of crime.

The government has a firm view that victims of crime should be free to spend whatever compensation they receive solely at their own discretion, and in some instances that may well include expenditure of a personal nature that assists that particular victim of crime to readjust to normal society.

The government is also of the view that a tribunal should not preclude a victim of crime or the family of a

victim from setting up a reward for information leading to an offender being captured or convicted, as has been well documented in the Halvagis case, where the family was precluded from pursuing compensation because they made it known that they intended to use the compensation for that purpose.

The government has a view, as I said, that victims of crime and their families should be able to spend the compensation as they see fit and appropriate.

Under the present act primary victims of crime can obtain financial assistance up to $60 000 for the payment of medical expenses, loss of income and other associated expenses. Secondary victims, who can include witnesses of a crime and members of the victim's family, are eligible to obtain compensation for such losses up to a maximum of $50 000.

The bill does not seek to alter those ceilings, but clause 6 provides that any special financial assistance — that is, compensation for pain and suffering; I use that term to assist members' understanding — will be in addition to those capped amounts. In effect, the government is increasing the pool of funds available to victims of crime and their families from the current ceilings of $60 000 and $50 000 respectively to allow additional amounts to be obtained by way of special financial assistance.

Prior to 1 July 1997 victims of crime were able to obtain compensation for pain and suffering up to a maximum of $20 000. Concern had previously been expressed — I can say this having been formerly a practising member of the legal profession — that the wide discretion available was leading to inconsistent decisions and awards being made by the Victims of Crime Assistance Tribunal. It was also difficult for victims of crime and their legal advisers to obtain any proper indication of the amount of compensation a victim would obtain if he or she pursued an application. The scheme the bill seeks to introduce in clause 7, which inserts proposed section 8A in the principal act, will introduce a level of compensation that is contingent upon two factors. The first factor relates to the seriousness of the offence, with higher awards being made for more serious offences, and the second relates to the impact on the victim. Obviously a higher award will be made to a victim who has suffered an injury as opposed to a significant adverse effect. I will speak more about that in a moment.

Mr Furletti sought to suggest that the amount of compensation being offered under this four-tiered approach where offences are categorised as A, B, C and D, with category A being the most serious type of offence, is paltry. I think he used the words 'paltry in nature'.

Hon. C. A. Furletti — I said that people who suffered serious injury could find it insulting.

Hon. JENNY MIKAKOS — I thank Mr Furletti for that. I am always keen to make sure that I get his exact words on the record. They are worth putting on the record!

My point was that Mr Furletti was indicating that the level of compensation was inadequate at the same time as he said the amount the government has budgeted for will be inadequate to meet the demand. He sought to illustrate that point by referring to averages under the previous scheme, which allowed for a discretionary cap of $20 000. I do not believe any kind of analysis can be made based on the previous averages, given that we will now have a system that prescribes a maximum award based on the seriousness of the offence and will take into account the level of injury suffered by the victim involved.

Hon. C. A. Furletti interjected.

Hon. JENNY MIKAKOS — There will be discretion, Mr Furletti, that is why a minimum and a maximum are set out in the bill.

The bill provides for four categories of offences and gives the tribunal a discretion to award compensation based on the seriousness of the offence. Whether acts of violence fall into category A, B, C or D will be prescribed by regulation, as will the maximum and minimum amounts of compensation.

The government has made it clear that it is committed to reviewing the adequacy of the award levels after the scheme has been in operation for a three-year period. Mr Furletti owes it to victims of crime to give the scheme a chance and see how it operates in practice.

In my view, the introduction of the categories will not trivialise in any way the seriousness of offences. Even where a victim of crime is able to pursue only a smaller amount of compensation under category D, the fact that he or she is able to pursue that compensation without the previous threshold of $200, which will be removed, is a validation to that victim of the fact that he or she has suffered a serious injury that is deserving of compensation by the community.

In addition to introducing this four-tiered scheme the bill also seeks to introduce a wider class of victim. Unlike the situation under the Kennett legislation, a victim of crime will not be precluded from pursuing

compensation because the offender has not been charged or convicted of an offence. The Victims of Crime Assistance Tribunal will be able, on the balance of probabilities, to award compensation where it comes to the view that an act of violence has been committed.

In addition, it will no longer be necessary for a victim of crime to prove injury. The concept of significant adverse effect that has been introduced in clause 5 of the bill seeks to add grief, distress, trauma or injury experienced or suffered by a victim as a direct result of an act of violence to the previously existing concepts of injury. In addition, the concept of injury itself has been expanded to include mental illness and mental disorder. By introducing the concept of significant adverse effect and by broadening the definition of injury, the government has ensured that a larger group of victims of crime will now have scope to pursue compensation under the legislation.

As part of its commitment to fiscal responsibility the government felt it was unable to make the legislation retrospective to 1997. However, victims of crime, where an act of violence occurs after 1 July 2000, will be able to pursue compensation for special financial assistance. Those victims of crime, where the offence has been committed before 1 July 2000, will still remain eligible to apply for financial assistance for things such as medical expenses and loss of income.

The one area where the government has decided to be more generous in terms of retrospectivity is childhood sexual assaults. Clause 20 seeks to recognise that there is an inherent delay in the reporting of crimes involving childhood sexual assault, and the legislation will allow children who have experienced sexual abuse after 1 July 1997 and children abused before 1 July 2000, where the alleged offender has been committed or presented for trial after 1 July 1997, to pursue special financial assistance. This exception to retrospectivity is highly warranted. From the number of public instances that have been documented in recent years honourable members will be aware that it is particularly traumatic for children to report those types of crimes and that they may only come to light many years after the event when a victim has become an adult and is able to face the reality of the traumatic situation in which he or she was involved and to report that matter. I commend the Attorney-General for including this exemption in clause 20.

Clauses 8 and 9 seek to insert proposed section 10A in the Victims of Crime Assistance Act. At the present time the principal act allows primary victims in exceptional circumstances to apply for payment of expenses that will assist them in their recovery. This payment of expenses is in addition to any entitlement they have to compensation for medical and other expenses. To date, such awards have been made to cover expenses such as the purchase of computers, the cost of holidays and the payment of educational and remedial courses.

I should add that such payments are made only in highly exceptional circumstances where the tribunal is satisfied that the payment will assist the victim to recover from the crime committed against him or her. The bill seeks to extend the exceptional circumstances entitlements to related victims affected, for example, by the death of a victim, and also to certain secondary victims, such as parents and guardians of child victims, but not to witnesses present at the scene.

Part 2 of the bill also contains a number of minor amendments. I shall refer to some of those briefly. Clause 11 removes the penalty for failure by a victim to notify the tribunal of other potential applicants. Currently, related victims are required to inform the tribunal within 21 days of making an application of the details of other potential applicants. A failure to do so results in the victim being liable for a penalty of up to $5000, which is a fairly harsh imposition to make on applicants to the tribunal. Clause 11 removes the penalty while retaining the notification procedure. In this way the tribunal is assisted in informing other victims of their entitlements without victims being under the threat of having to pay a significant fine for failing to comply with the current section.

Clause 17 seeks to remove the presumption that related victims have to bear their own legal costs. The current Victims of Crime Assistance Act creates a presumption that related victims bear their own costs. Such a presumption does not exist for other categories of victims, such as primary and secondary victims. Clause 17 removes this presumption so that all victims are treated in the same way for costs.

The final matter I wish to refer to under part 2 relates to the current provisions in the act that relate to public access to the tribunal's material. Currently, the Victims of Crime Assistance Act regulates how evidence and documents are presented to the tribunal and how such documents can be inspected and published. Clauses 15 and 16 provide that tribunal material should not be published unless the tribunal is satisfied there is a public interest in so doing.

The bill also seeks to address and regulate the manner in which documents on the tribunal's file may be inspected by members of the public. Under the proposed new section inspection by the public is

prohibited unless the tribunal orders that a document should not remain confidential, and where inspection is sought by a person other than the victim without the leave of the tribunal and the registrar believes the document should not be disclosed.

I now move to part 3 of the bill, which relates to amendments of the Sentencing Act 1991. When the Kennett government abolished the statutory right for compensation for pain and suffering, it also amended section 86 of the Sentencing Act to extend an offender's liability to pay victims for the harm that he or she caused. Liability at that time was extended from property damage to include liability for pain and suffering.

I am sure all honourable members will be of the view that offenders should in theory be held financially accountable for the harm they cause to their victims. However, in practice the matter is more complicated. I welcome Mr Furletti's congratulating the government for proposing amendments to section 86 of the Sentencing Act. To date, very few victims of crime have been able to pursue compensation or redress from offenders. The current operation of section 86 inappropriately places the onus on victims to pursue offenders for compensation, which puts them at risk of revictimisation.

Section 86 of the Sentencing Act is dependent upon defendants being successfully convicted of offences and being both capable and willing to pay the compensation pursued. The government is proposing to retain section 86 as an option available to victims. That option will be complementary to and not in substitution of a state-funded compensation scheme.

I note that clause 4 of the bill, which relates to the objectives of the Victims of Crime Assistance Act, states in new section 1(3) that:

> Awards of financial assistance … to victims of crime are not intended to reflect the level of compensation to which victims of crime may be entitled at common law or otherwise.

Under the proposed system victims of crime will be able to simultaneously pursue compensation through the Victims of Crime Assistance Tribunal and under the Sentencing Act. Clause 12 precludes the Victims of Crime Assistance Tribunal from staying an application from being heard because a civil proceeding or a related proceeding under the Sentencing Act is being heard at the same time. In effect, it requires the tribunal to hear a matter quickly so that victims of crime can get on with their lives.

The government has decided to make a number of alterations to the operation of the Sentencing Act to expedite the application and hearing processes for victims of crime. That will be achieved by extending to 12 months the current 6-month period within which victims' applications for compensation can be accepted. A further extension of time will also be granted where a court application has been made and the court believes it is in the interests of justice to extend an application beyond the 12-month period.

As I said previously, the definition of 'injury' will also be expanded to enable a broader range of victims to pursue compensation, not only under the Victims of Crime Assistance Act but also under the Sentencing Act. In addition, a wider range of documents and evidentiary materials will be admissible, including evidence from victims themselves, in compensation claims made against offenders. In addition, compensation will now be available to victims of crime for a wider range of matters, including medical costs and other expenses.

The government has decided to continue the current practice of having no ceiling on the amount that can be awarded under part 4 of the Sentencing Act. Victims of crime will be able to pursue the maximum compensation available under the Victims of Crime Assistance Act as well as pursuing, in theory at least, an unlimited amount of compensation under the Sentencing Act.

I congratulate the Attorney-General on yet again seeking to speedily introduce a bill that will implement one of the government's pre-election commitments. In doing so, he has allowed for a more than adequate process of consultation to occur with key stakeholder groups. The bill, which I hope the house will pass today, is a very good piece of legislation. The changes it proposes to the Victims of Crime Assistance Act and the Sentencing Act will not only assist victims of crime to attain just recompense for the loss and harm they have suffered, but will also assist them psychologically to validate their experiences publicly and adjust back into the community. I commend the bill to the house.

Hon. R. M. HALLAM (Western) — I shall report the National Party's reasoned response to the Victims of Crime Assistance (Amendment) Bill and indicate that the bill shall not be opposed.

The bill has two purposes: firstly, to amend the Victims of Crime Assistance Act of 1996 to enable primary victims to receive a monetary award for significant adverse effects and to increase the amounts that may be awarded to secondary and related victims in certain

circumstances; and secondly, to amend the Sentencing Act of 1991 to reform the process by which victims may recover compensation from defendants in criminal proceedings without having to resort to civil proceedings.

The major concept underpinning the bill is, we are told, a response to the Bracks government's commitment to reinstate pain and suffering as a basis for compensation to victims of crime. We are also told the bill reverses the decision taken by the Kennett government to specifically exclude pain and suffering as a basis for victim compensation under the Victims of Crime Assistance Act.

Honourable members should note that at the same time as the deliberate decision was taken to remove pain and suffering as a specific basis for compensation under the Victims of Crime Assistance Act, the Kennett government strengthened access to compensation under the Sentencing Act by allowing the courts to make compensation orders for the pain and suffering of victims where offenders were convicted.

From the National Party's perspective, the effects of the bill fall into two categories. The first category is a number of practical initiatives that go to the management and administration of victims of crime compensation in a general sense.

I acknowledge that victims of crime is a relatively new and evolving area of law that will need to be finetuned over time. The National Party acknowledges that the amendments to the bill are designed to assist questions of equity particularly regarding access to compensation and the practicality of its administration. On that basis, the National Party is happy to support the amendments.

However, the second category deals with those effects designed to deliver the Bracks government's undertaking to reinstate pain and suffering compensation as a separate and legitimate basis of compensation for victims of crime. Much can be said about whether pain and suffering is an appropriate basis on which to award financial compensation. That opens up the old debate of whether the community should differentiate between pecuniary compensation and non-pecuniary compensation, and about the rationale for any differentiation.

That is not a new debate for the chamber or for me because the house has dealt with that specific issue on several occasions, particularly regarding workers compensation where repeatedly the question arose about the appropriateness of awarding damages specifically for pain and suffering. I will return to that issue in the context of the 1996 amendments.

Much can be said about that fundamental issue, but even more can be said about whether the bill delivers on the commitment given by the Bracks government in opposition about returning pain and suffering as a specific basis on which compensation should be awarded. The second-reading speech describes the award as a tangible expression of the community's sympathy and concern.

That demonstrates that the government is at least tacitly acknowledging that the award is symbolic. It is reported that the honourable member for Richmond in the other place, who chaired the Attorney-General's review committee, went one step further and described the bill not only as symbolic but also as a token gesture. That is a long way removed from the commitment to reinstate pain and suffering as a basis for compensation.

I can do no better than go to the first paragraph in the second-reading speech of the Attorney-General in another place, where he states that the bill:

> … implements the government's election commitment to reinstate compensation for pain and suffering for victims of violent crime.

That is a bald statement of claim. When one turns to the way in which that reinstatement is to take place one discovers it is severely restricted and becomes a pale shade of the system that previously prevailed. Some of the claims made by the government become fanciful.

The National Party has misgivings about several aspects of the concept that underpins the bill. The government is obviously less enthusiastic since it has assumed the responsibility of office because the bill is a substantial step back from the previous undertakings given from the comfort of opposition. But for all that I acknowledge that compensation for pain and suffering was a specific election commitment. To that extent Labor has a mandate and the National Party believes not only that the government should be given the opportunity to implement its policies and promises but also that it is the job of those on the opposition benches to ensure that it keeps its promises.

The bill goes about half way towards achieving what the Labor Party undertook to do. Moreover the government is going in the wrong direction. However, the Labor Party won the right to manage the affairs of state and on that basis the National Party does not oppose the bill. I wish the Labor government luck in this instance. As the Honourable Carlo Furletti said, I give the government notice that the National Party will

also monitor the new provisions. I intend to remind the government of commitments made and comments made in this place today.

Much has been said about the Kennett government's 1996 decision to delete pain and suffering as a separate criteria under which compensation could be granted by the Victims of Crime Assistance Tribunal. The house has repeatedly heard that the previous administration was heartless, that the Kennett government lacked compassion and care and that it was driven too much by the bottom line. It is on the public record that the Attorney-General has described the decision made on pain and suffering in 1995 as outrageous. Before the Labor government completely rewrites history I shall recall some of the facts and issues the Kennett government faced in 1995 and 1996, which led to the 1996 amendments.

By 1995 every honourable member, every community observer and certainly every advocacy organisation knew that something had to be done with the old system, which was primarily based on the old Criminal Injuries Compensation Act. That legislation was breaking down. Many criticisms made of the system as it then operated were accepted across party lines; it is ironic that many of those criticisms are tacitly acknowledged today in the bill. I ask the house to recognise some of the real issues rather than retrospectively demonising the architect of the 1996 changes.

The then Attorney-General, the Honourable Jan Wade, pursued a number of reforms that were specifically designed to protect and recognise victims in the operation of the Victorian legal system. I put at the head of that list the issue of victim statements. Jan Wade is entitled to be congratulated on her foresight and tenacity as a legislator; she did not lack compassion and courage. She does not deserve the misconstruction of events now put forward as the justification for the bill.

I turn now to the recognised facts that were then generally agreed across the political spectrum. The first criticism was the recognition that the system was too slow. There is much evidence that the speed of the award system is critical to its success; that rule applies to any remedial package and underpins the transport accident and workers compensation systems. There is general acceptance that time is of the essence when it comes to devising a remedial package. The best way to address trauma is to act immediately or as quickly as possible; the recovery process must start as soon as possible. It is generally acknowledged that any delay in the implementation of a remedial package becomes a complication or a barrier to a victim's ultimate recovery.

Under the old victims of crime assistance system prior to 1996 many of the awards made, as the Honourable Carlo Furletti said, occurred two or three years after crimes had been committed.

In fact, I think more than 50 per cent of awards were paid more than two years after the date of the crime. We should all acknowledge that that was an absolutely hopeless situation. We had reached a point where compensation was considered quite separately from recovery. In other words, the test of whether the system was working became dependent on the dollar sign; the dollar became the measurement of community response rather then the extent to which that dollar had effectively contributed to the recovery. Thus a compassionate government had to do something about the time factor. That much was clear. Let the record show that the Kennett government did do something about that time factor. We provided for free crisis counselling available via a voucher immediately upon recognition of the claim. The first thing was the issue of timing.

The second criticism, which was accepted across the political spectrum, was that the process operating then was too haphazard in its format — it had become a lottery. Prior to 1996 the likelihood of compensation being awarded depended more upon the name of the lawyer whom the claimant consulted than the merit of the claim. The raw data was obvious. Only about one in four of those who were ostensibly entitled to make a claim actually did so. What does it tell us about the system when between 1994 and 1996 only about one in four of those who ostensibly qualified actually applied for compensation? The fundamental question that was raised at the time was: how could that be the case? The fact was that very few victims were advised of their entitlement; it depended on which law firm had been consulted and whether a law firm had been consulted.

Despite whatever else they might have done that has led to criticism today, the 1996 amendments saw the introduction of an automatic referral line. As soon as victims contacted the police they were advised of their entitlement regarding counselling and compensation, and the number of people accessing those services grew dramatically. Not surprisingly there was an exponential growth in the number of people applying. In my view that was a good thing on two counts: first, it overcame the fact that the majority of victims were missing out on existing services and entitlements; and second, the new system was providing access immediately so services become much more effective, particularly for those

who fell into the counselling category. We saw very clear evidence of greater access, and that hardly sounds like a government that lacked compassion. I suggest that the facts in that instance speak for themselves.

Thirdly, I will make some points about the extent to which the system was open to abuse. Much has been made of this aspect, and we have heard about the claims in respect of the red coat which, in my view, is nothing more than a red herring. There were many examples where compensation was granted in circumstances not contemplated in the design of the law. Mr Furletti has given the chamber a number of examples of that. Many successful claimants were clearly not blameless: many had contributed to the action that caused their injury. Examples were cited of several claims arising from the equivalent of a pub brawl where there were grave doubts that the injured and the compensated claimants were innocent bystanders, which was the inference in the original design. In many cases it was clear that those successful claimants were not just unfortunate enough to be in the wrong place at the wrong time. There was evidence of rorting and it did not go to the issue of how the claimant used the damages awarded — the so-called red coat example we see cited in the second-reading speech, a frivolous example.

We were much more concerned about how some of the claimants had the temerity to make a claim in the first place. To that extent the system had been held up to ridicule and had lost credibility in the eyes of the community. Members should remember, as we did then, that it was the community who was funding it. There were any number of genuine claimants in the system who witnessed the dubious claims going through the system at the time. Members can make light of it, but there was plenty of evidence that the system was being employed beyond the objectives originally intended.

Fourthly, and this, too, was uncontested at the time, the system had become too costly. I remind the chamber that in 1995 the Auditor-General did a report on compensation for victims of crime. He reported that the awards were running at the rate of about $100 million per annum. More importantly, he said at the time that the trend was exponential and he expected that unless changes were implemented the total value of claims would reach something in the vicinity of $160 million per annum by the year 2000. As proof of that he cited a 370 per cent increase in claims in the five years from 1998. We could not close our eyes to the facts of the system. It represented a substantial cost to the public purse and it would have been quite irresponsible to ignore the trend, particularly given the fact that the basic criticism of the scheme was that it was too selective and therefore unfair in respect of accessibility. We were determined to do something about equity of access. We did that and that is a recorded fact.

That meant that the impact on the public purse could be expected to rise dramatically. The question that arose then was whether, if we could overcome the issue of inequity in respect of access, we should automatically see the increase in the cost to the public purse as a mark of success or conclude that we had found a way to make the system fairer. We had overcome the lottery, that was clear. We had seen the services become more widely available and had seen the cost of services rise. The question was whether we could sustain the trends in respect of that system. Our conclusion was that there is no Santa Claus in government. We had to balance the rights of the claimant on one hand against the impact on the taxpayer on the other. It is all right to criticise and say we were only interested in the bottom line and that we should have been interested in people rather than the dollar sign, but that is a very cheap shot. As Labor will learn, in government someone has to count the cost of compassion. Whatever else is said about the Kennett government I do not think anybody could claim that it took other than a responsible view in respect of public finances and the stewardship of the public purse.

The irony is that in the very next breath the Bracks government is recognising the cost factor in the changes to the scheme. We are told in the second-reading speech that $45 million has been allowed over three years for the newly introduced classification of compensation under the heading ‘Pain and suffering’. We suspect that the actual cost will prove to be much greater than that. We are prepared to wait and see, but I ask the minister to explain the differences that I believe are inherent in the figures quoted in the second-reading speech. For instance, we are told as justification that retrospectivity could not be afforded that:

> Before the changes in 1997, awards for compensation and costs amounted to between $40 million and $50 million each year.

On that basis:

> It would be too heavy a burden to impose such a three-year liability upon the community today.

So here is a government saying it would cost between $40 million and $50 million a year — that is the way I read it, each year — and yet we are told that by some stroke of a miraculous pen the reinstatement of compensation for pain and suffering can be funded through a staggered allocation of $45 million over the next three financial years. It seems to me to be a

fundamental mistake in the costing. On that basis if no other I put the government on notice that the Opposition parties will be watching carefully the operation of the expanded scheme.

I note the decision to not backdate the changes over the three years that the current regime has been operational. Honourable members are told again in the second-reading speech that the constraints on funding are tighter than they have ever been. The precise quote is:

> Given the work ahead of us in rebuilding Victoria —

I should put '[sic]' there —

> the constraints on funding are tighter than they have ever been.

I wonder where the minister has been. I might also say that it is interesting to see that the government has discovered fiscal responsibility. But what a difference a day makes, particularly if it is the one that has seen the government change hands! It is a bit rich that the Bracks government is blaming the Kennett administration for the decision to not backdate, particularly as the former government has just left a massive budgetary surplus in the path of the incoming government. I consider it appropriate to compare that with the position that confronted the then government in 1996 when it was still cleaning up the horrific mess left after the last Labor administration.

But honourable members are told by way of justification that the liability for funding retrospective claims rests with the community, that there is no particular section of the community that can be milked — that is the inference that can be drawn — as applied to workers compensation where the employers of the state were seen to be fair game.

My question is: what is the point in saying that the retrospective claims rest with the community? I would have thought that this is public funding and all the claims rest with the community. I do not see much difference between offering a retrospective claim and offering one in the future. I wonder what school of economics Labor members attended. This is a publicly funded system and I cannot see why the government should offer that explanation to justify the decision to not retrospectively change the rules. I am not arguing for retrospectivity but I think it is a hollow justification to say it has to be funded by the public purse, that the government cannot afford to go back, and, 'Retrospectively we would love it but it is the fault of the Kennett government'. What arrant nonsense!

On the issue of costs, I turn to that last factor that drove the need to review what was the scheme in 1996. I make the point that the Labor Government is effectively reinforcing today the very concern that ultimately determined the then government's position in 1996 to the extent that honourable members are now seeing restrictive parameters on the new pain and suffering component that is euphemistically called 'special financial assistance'. I note there is a maximum of $7500 in the worst and most heinous of crimes. For the vast majority the awards will be substantially less, and perhaps as little as $100 given that that threshold is nominated in the lowest category of crime. I also note that the victims will be able to obtain compensation without having to prove an injury, so I suspect that there will be many awards at the lower end of the scale.

I find it interesting and a reinforcement of the very issue the then government confronted in 1996 about the appropriateness of offering compensation for pain and suffering to see the classifications now being attempted. One can therefore conclude that the reintroduction of compensation for pain and suffering is absolutely symbolic. I prefer the description of 'tokenistic' used by Mr Wynne, the honourable member for Richmond in the other place. I saw the description in the second-reading speech that here was the opportunity to have suffering validated by the state. That is clearly tokenism.

So much for the strident criticism directed at the Kennett government's decision of 1996, and so much for the description that the legislation was outrageous. I make the point that here is the chance for the Bracks government to review and reverse the 1996 changes. The bottom line is that the vast majority of the reforms that were introduced under the Kennett government in 1996 have been retained, and that is hardly consistent with the notion that they were outrageous.

The final factor that underpinned the 1996 changes was the basic question of whether it was appropriate to award public funding to victims of crime as compensation for pain and suffering. I recall the debate well because it was across the community, across party lines and in the chamber and many associated issues surfaced as a result of that debate. I make the point that pain and suffering by definition is subjective and almost impossible to measure objectively.

That raises the basic question of how one is to compensate for pain and suffering, because the impact will vary dramatically between individuals. I note, as did Mr Furletti, that in respect of the award between the minimum and maximum nominated in the bill there is absolutely no assistance offered to the tribunal as to

how the award should be made and how the assistance should be assessed. The Bracks government may well come across exactly the same issues that confronted the former government in 1996. To this point the issue has been dodged. All the government has said is that these issues shall be resolved by regulation, so it has not addressed the hard issue. When it comes down to the crunch someone will have to say what the entitlement is in a particular instance and how that assessment is to be made, because by definition it is personal and cannot be objectively measured.

Are we to see awards increased because some particular claimant is better at describing the injury? Are we to see awards vary because one particular claimant is less able to cope psychologically? I will bet that someone will come up with a solution that to overcome the inequities that will inevitably arise in respect of the awards, they should be standardised. The vagaries of the assessment on an individual basis will be taken out. I suspect that the debate will turn full circle.

At the end of the day should it really come down to how the claimant is able to describe his or her pain and suffering or how clearly that pain and suffering is described by a third party? There are many other issues of potential inequity; and anyway, the concept of being compensated for pain and suffering will logically tend towards the victim maximising and perhaps even exaggerating the injury. That is not something that I enjoy describing but it is a fact of life. When you open the door to a claim for compensation that depends on how badly you say you have been injured isn't there a natural tendency for claimants to want to maximise the award made?

It is inconsistent with the notion that compensation is meant to be taking them back to their circumstances so far as possible before the incident. We may undermine the recovery process by superimposing pain and suffering compensation over the whole process. That may be putting too hard a view on it, but it comes from experience in the field. The return to pain and suffering compensation, albeit well meaning, may come back to bite the Labor Party hard. That may not be fair on some who are caught up in the process. I can say with some sureness that the allocation of public funds for pain and suffering for victims of crime will not guarantee certainty or assist the recovery process. Against that background I suggest that the community may not be convinced that it is getting good value for its investment.

When in government the coalition took the position that there was no guarantee that public funding allocated to compensate for pain and suffering would be a smart investment. The issue will return and will become more expensive for the public purse than first anticipated by the Bracks government. For all that, we acknowledge that the concept of reintroducing pain and suffering as a compensable factor for victims of crime was a specific commitment of the Labor Party, and on that basis the bill will not be opposed.

The fundamental reasoning behind the National Party's position goes to the mandate theory, upon which I am not certain governments should rely, but in this case Labor told the Victorian community that it was committed to the reintroduction of compensation for the pain and suffering of victims of crime, and the rub is that the compensation is so heavily restricted. In any event, we are yet to see the regulations that will determine the precise nature of the awards. There has been some fast footwork rather than the delivery of a specific commitment.

I suggest that those who supported Labor on the basis of this commitment should be more unhappy with the bill than members of the Liberal and National parties. It is not because Labor has reintroduced pain and suffering compensation but rather the extent to which it has not met the specific commitment. I read the protestations of Labor members in 1996, when they were in opposition, and I relived the strident criticism and saw the graphic undertakings given prior to the last election. I suggest all Labor Party members in this chamber should be embarrassed because the bill makes nothing like the changes they promised from the comfort of opposition.

When all the tumult and the shouting dies down, this legislation is a Clayton's return of pain and suffering as a compensable basis of compensation for victims of crime. Four categories have been introduced over which compensation for pain and suffering is claimable ranging from a few dollars to a maximum of $7500 for the most heinous of crimes and demonstrable harm.

I make the point, as I did by way of interjection during the Honourable Carlo Furletti's contribution, that there was no restriction on pain and suffering as a component of compensation entitlements under the previous regime. I cannot find any circumstance where pain and suffering as a head of compensation within the aggregate was restricted. It is clear that the return of pain and suffering in this case is tokenistic, and it reminds me of the pup that was sold to the unions on the return of common-law access in workers compensation claims. Here we have Labor on the tightrope, on the one hand addressing the grandiose promises recklessly thrown around from the comfort of opposition and the need to deliver to those to whom

those promises were primarily directed and from whom support was drawn, while on the other hand addressing the other side of the coin, the overall public commitment to financial responsibility.

If only governments could be all things to all people, but they cannot. Labor should get ready for the chickens to come home to roost. The bill shall not be opposed.

Hon. M. T. LUCKINS (Waverley) — The Liberal Party does not oppose the Victims of Crime Assistance (Amendment) Bill but it has grave reservations about how the amendments will be applied. I take personal exception to the expression 'symbolic', as did the Honourable Roger Hallam and other members. The honourable member for Richmond in the other place used the word 'tokenistic'. As he was the chairman of the committee that came up with these recommendations, I find that very interesting indeed.

Proposed section 1(2)(b) states that one of the objectives of the bill is:

> to pay certain victims of crime financial assistance (including special financial assistance) as a symbolic expression by the State of the community's sympathy and condolence for, and recognition of, significant adverse effects experienced or suffered by them as victims of crime …

It goes on to say in proposed subsection(4):

> The scheme provided by this Act is intended to complement other services provided by government to victims of crime.

Other honourable members have outlined the previous scheme introduced in 1996 by the Kennett government. I have had to sit here and listen to the former Attorney-General, Jan Wade, being shoved from pillar to post, and I have certainly taken great interest in the debate that took place in the other place.

I shall indulge myself for a moment and reflect on some of the wonderful things Mrs Wade did, particularly for women in this state as Minister for Women's Affairs and Attorney-General. She recognised that 90 per cent of victims of crime are women and over many years she made a number of changes to the way justice is accessed in Victoria. She introduced victim impact statements, which allow the victim to have his or her day in court and to provide a statement about how he or she was personally affected so that the judge, the jury and the accused in court are fully aware of the impact the crime had on that victim.

She also introduced the Crimes (Confiscation of Profits) Act, which for the first time allowed the profits from all crimes to be confiscated from a convicted criminal and used by the state to compensate the victims of those crimes.

She also introduced videoconferencing for victims, which was very, very important for women, particularly for women who had been in intimidating situations or who had been sexually assaulted by someone in a domestic or community setting. It was also an important change for children, because it allowed them to be interviewed in a non-intimidatory environment.

The original legislation, the Criminal Injuries Compensation Act, to which Ms Mikakos previously referred, was introduced in 1972 by a Liberal government. Like the Honourable Roger Hallam, I am sick and tired of hearing about the care and compassion of those on the other side of politics. This side of politics has demonstrated its compassion and care over many years and throughout generations of politicians in this place. This government does not have a mortgage on care and concern for the community. The former government demonstrated more compassion because it gave people the opportunity to better their lives and stop feeling like victims; they were encouraged to reach their full potential.

The 1996 Victims of Crime Assistance bill was a multipronged program and scheme devised to provide real assistance to victims of crime and to those who witnessed crimes and were affected by them, including family members or friends of the victims. In cases where fatalities occurred, legislation was introduced to maximise the potential for victims' recovery from the psychological and physical effects of violent offences.

It should be noted that under the old system on many occasions victims of crime had to wait for long periods — months or even years — to have their day in court. During that time no counselling was available to them. Medical research backs up the assertion that if treatment is not provided to victims very soon after the commission of a crime, post-traumatic stress disorder can result.

It is not certain that monetary benefits for victims of crime for pain and suffering do anything to alleviate feelings of grief and of being victims. For that reason the objective of the 1996 legislation was to provide appropriate services for victims to facilitate their recovery. As soon as a crime was reported to the police, the police would either distribute a voucher to that victim or provide the telephone number of a victims' referral information service so that that person could be put in touch with people who could help to immediately work through the trauma.

Wherever practicable convicted offenders were made to pay for the harm they caused to the victims of crime. The procedures in the criminal justice system provided a quick and economical means to redress the harm suffered as a result of the offenders' criminal conduct. The provision of immediate counselling was one of the greatest strengths of the still-existing system. I note that when in opposition the shadow Attorney-General, Mr Hulls, was vocal in 1996 and again in 1997 when the Victims of Crime Assistance Act was amended. He was very vocal about the fact that the existing system put in place by the Kennett government was somehow flawed. It is interesting to note that every aspect of the legislation introduced by the previous government has been retained by the new Labor government.

In opposition Labor certainly gave the impression that if it won government — Labor members did not plan to be in government and that is becoming more and more obvious all the time — victims of crime would receive great amounts of compensation for pain and suffering. I believe the compensation offered in the bill adds insult to injury for victims of crime.

The previous government also introduced the victims of crime referral service to provide assistance to victims of crime throughout Victoria. It was aimed specifically at the migrant community, the elderly and women.

An article in the *Herald Sun* of 2 December 1997 entitled 'Victim support service' quotes Mr Barnett from the Victims of Crime Assistance League (VOCAL) and states:

> Elderly crime victims are among those most likely to benefit from a new network of victim support services to be set up next year.
>
> Victims of Crime Assistance League president, Mel Barnett, yesterday said the service would help many victims who were not catered for.
>
> VOCAL has been awarded a state government tender of $450 000 to establish the program throughout the metropolitan area.
>
> …
>
> Mr Barnett said the arrangements would be 'a major move towards servicing the 95 per cent of victims who've got no assistance previously'.

That referral service worked, and it assisted the most isolated people in the community.

The previous regime also included what I term proper compensation for primary, secondary and related victims. In her contribution the Honourable Jenny Mikakos took ownership of the compensation available and even implied that somehow that scheme of compensation formed part of the bill. It does not. It is retained in the previous system set up by the Kennett government.

I will be in this place for a fair while and I hope by the time I retire — more particularly during this term because I hope members opposite are not still in government when I retire — I will hear the Bracks government acknowledge something done by the previous government as good, wholesome and compassionate for the community.

Under the 1996 legislation primary victims were eligible for assistance of up to $60 000, and that included counselling additional to the counselling already provided to them through the other scheme. It included payment of medical expenses and other expenses to assist the victim's recovery in exceptional circumstances. That could be seen as a pain and suffering component, because it was up to the tribunal to decide the exceptional circumstances and the additional payments. Primary victims of crime were also eligible for payments for loss of income up to $20 000.

A secondary victim is a person who witnesses a crime or a parent of a primary victim where the primary victim is a child who suffers an injury. Secondary victims were eligible for assistance of up to $50 000. Related victims were eligible for part of a pool of funds of $100 000, and an individual related victim was able to receive up to $50 000.

Those initiatives were introduced by the previous government, and for all the protestations of the now Attorney-General when he was in opposition, with the responsibility of government and some good advice from government bureaucrats he has decided that he likes the scheme and he admits that it is working well.

For an explanation of why the pain and suffering component was removed in 1996 I refer to an *Age* article of 11 November 1996 entitled 'A better way to help victims recover' by Jan Wade. Because Mrs Wade is not here to answer for herself as to why she removed the compensation, I will quote the article to justify her position. It states:

> Compensation for pain and suffering only indirectly assists a victim's recovery from the crime. Medical research suggests that while these payments may benefit victims, compensation does not alter later symptoms of psychological suffering.
>
> Further, while it is argued that there is symbolic merit in payments for pain and suffering, the amounts awarded do not reflect the victim's suffering and injury. In fact, some victims have described the amounts as insulting.

I now turn to the compensation being offered by the government for pain and suffering. Categories A, B, C and D go from $100 in category D for an average assault up to $7500 for a heinous crime or a particularly violent rape. Many victims of crime, and in particular rape victims, feel an additional burden because many in society do not accept their physical and mental pain. Rape is sometimes seen as a lesser crime.

We have some way to go before rape victims gain from the community the respect and support they need. Sexual assault victims I have spoken to often say that they feel of less value or worth after the crime. To be offered between $3500 and $7500 may be considered paltry in that category. It may lead to additional psychological trauma because they think society deems them worthy of only that amount and therefore they must be worthless. It is fine to have a token gesture, but I question whether the millions of dollars of community funds that will be spent on the reinstatement of pain and suffering as a component of compensation is the best way to spend that money. I do not believe the compensation for pain and suffering will ease the pain and suffering of the majority of victims of crime. Indeed, many victims of crime will continue to feel like victims — powerless, threatened, insecure, unsafe and vulnerable — unless they get the psychological help and support of their families and friends and the understanding of the community immediately after the crime has been committed.

The psychological trauma suffered after a crime does, when swiftly treated, diminish and is proven to diminish, enabling the person to get on with his or her life. There by the grace of God go all of us with violent and particularly spontaneous crime. A split-second or seemingly spontaneous act will have an effect on the mental health of a victim and that person's ability to work and to interact with his or her family and friends. The best support you can give to a victim of crime is psychological support to enable him or her to get over the trauma.

I refer to a victim of crime mentioned in an article in the *Herald Sun* of 22 March 1998. The article is entitled 'Hold-up puts a life on hold'. I will not mention the person's name, but he was held at gunpoint and pistol-whipped while working at a South Melbourne tramway depot in 1994. The article states:

> The burglary and attack caused minor physical damage, but the psychological trauma is constant.
>
> 'It just keeps going through my head', he said. 'I can still see his head and hear the clicking sound of the gun …

He rarely leaves his house and he never opens the windows or answers the telephone or the door, which remains locked. He has developed a damaged neck from the strain of constantly looking over his shoulder on the rare outings he has with his children. He is seeing a psychologist and has been doing so since the crime. Regardless of how swiftly this man was treated after the crime he is still suffering from post-traumatic disorder. What sort of compensation would he get under the scheme? The crime may be seen as just another assault, which would mean he would be awarded $100, which would be nearly enough for him and his family to go to a pub for a Sunday lunch or dinner.

Hon. C. A. Furletti — It would be a small family.

Hon. M. T. LUCKINS — It certainly would not be my immediate family. In that case the man would not receive any benefit from the paltry pain and suffering payment. He would not feel any better after what he has been through and, as with a victim of rape, he might feel it has devalued the experience he suffered.

They are some of my concerns about how the amendments will affect the community. There is an excellent booklet available for victims of crime that sets out what to do in the case of a crime against you, a family member or a neighbour. It describes how to obtain counselling, what to do when you go to court and how to make a victim impact statement. The booklet has been widely available through community offices and councils for many years, certainly since 1996. I am proud of what the Kennett government achieved in this area. I am confident it did the right thing in introducing the full package in 1996.

From my personal experiences as the patron of the Bonnie Babes Foundation, which deals with a different area of grief — miscarriages and stillbirths — I know that the quicker people who have been traumatised gain assistance, advice and psychological support, the better. If I were a victim of crime — again, thank God that no-one in my immediate family, which is substantial and now has 23 members, has been involved in a violent crime but it could happen at any time — I would not feel adequately compensated by a payment of between $100 and $7500. I would expect the support I needed to get on with my life so I would not have to feel like a victim for years after the crime has been committed.

As I said at the outset, the Liberal Party does not oppose the bill, but it has grave reservations as to how the amendments will be applied. I wish the bill a speedy passage.

Hon. R. F. SMITH (Chelsea) — I support the Victims of Crime Assistance (Amendment) Bill. The proposed amendments are the result of many hours of work by the review committee. I would like to read into the record the participants in the review: the Department of Justice, including the Victims Referral and Assistance Service and the Asset Confiscation Office; the Magistrates Court; the Victims of Crime Assistance Tribunal; the Office of Women's Policy; the Victoria Police; the Office of Public Prosecutions; the Community Council against Violence; the Federation of Community Legal Centres; the State Victims Assistance Program Network, Crime Victim Services of Geelong, and CASA House. Membership also included Crown Counsel, a senior lecturer from La Trobe University and an adviser to Mr Russell Savage, the Independent in the other place.

The review committee was so extensive that it is almost impossible to suggest that anyone was denied access or was not represented on the committee. It reflects the Bracks government policy of full consultation on these matters.

I need to explain why the government proposed the amendments to the Victims of Crime Assistance Act. Not only was it a policy that the Labor Party took to the last election and committed itself to, but it was necessary to reinstate the compensation for those victims, it having been removed by the previous government. The Kennett government had the view that it was not necessary or appropriate to compensate people with cash. Indeed, the former Premier was reported in the media as saying that it was inappropriate for them to be compensated with cash because victims of crime would spend their compensation on holidays, perhaps buy red coats or pay off some of their children's debts. I thought to myself when I heard that, so what! Surely people can do whatever they like with the compensation. It is the government's view and my view that they should do just that.

That indicates the mind-set of the previous government: 'No, don't give them any money. They don't know what to do with it, so give them nothing!'. As I said, the government made it clear that it would reinstate compensation because it believes it is important to demonstrate to victims of crime that it cares and recognises their pain and suffering — even if it is symbolic, as some people suggest.

I have heard previous speakers talk about the rorting of the system. I am not suggesting for one second that I do not believe any rorting took place; I dare say some did. However, it is unacceptable to use that as an excuse to deprive the genuine victims. I have been approached by a member of the Liberal Party on this issue who said he knew of examples of people from the Aboriginal community taking it in turns to seriously assault each other and putting each other in hospital, being found guilty, and the victim collecting compensation. Some time down the track it would be the other person's turn. I think that is outrageous. I asked for evidence but there was none forthcoming. It was basically hearsay and again goes to that mind-set, which is unacceptable to the government.

The real issue is: is it reasonable for society to recognise victims and compensate them in some small way for their pain and suffering? The government's position is clearly yes. If compensation is given, what award or levels should apply, and in what circumstances? The bill contains four categories — A, B, C and D. Category A covers offences such as rape and incest and has minimum award compensation of $3500 and maximum of $7500; category B covers kidnapping, armed robbery, et cetera, and has minimum compensation of $1000 and maximum of $2500; category C covers indecent assault, attempted rape, et cetera, with a minimum of $500 and maximum of $1000 compensation; and category D covers offences such as assaults and threats, with a minimum of $100 and a maximum of $500 compensation. Those amounts are by no stretch extravagant and again demonstrate that we simply need to recognise that those people have been injured in some way. It is not the full amount of compensation they could claim anyway.

The issue of retrospectivity has come up again, and clearly the government's position is that no retrospectivity will apply for people who were victims during the period from 1 July 1997 until now. However, they will still be eligible to apply for financial assistance — for example, medical and counselling expenses and loss of income. The real fact is that the government simply could not afford to back pay three years of claims with all the associated problems, in much the same way as occurred with Workcover.

It is fair to say that the previous government was cold, uncaring or misguided in the way it removed provision for compensation for pain and suffering. The Bracks government promised to reinstate compo. The bill does that, and I commend the bill to the house.

Hon. B. W. BISHOP (North Western) — I will make a few brief comments on the Victims of Crime Assistance (Amendment) Bill. Many honourable members have already spoken on the bill and there are a number to come, and most of the technical issues in it have been covered. Before I commence my comments I

express my concern about the political nature of the second-reading speech. In my time in this house I have not seen one that is so blatantly political. My understanding is that the second-reading speech should explain in everyday terms the absolute intent of the bill. It is a privilege the government and the Parliament have, and they should take note of that. I believe it is an abuse of the house to have a political slant displayed in the second-reading speech. There are plenty of opportunities for that to come out in the debate that follows the second-reading speech.

I note the objectives that are outlined in the second-reading speech. I will read them, as they are admirable. The first is:

> equity of access to fair compensation …

which is very good. The second states:

> predictability and consistency in decision making, to assist the victims and their advisers to determine the amount they might reasonably expect to obtain from the tribunal …

The third objective is:

> simplicity and accessibility to those administering the scheme and to those seeking benefits under it …

The final objective is:

> fiscal responsibility to enable the scheme to be sustainable and capable of being administered within its budget.

The last objective is pertinent and should be recognised.

I took some time to examine the history of the Victims of Crime Assistance Act. From memory, I think it was introduced in 1996 but came into effect on 1 July 1997. It is important for the house to note during the debate today that the primary thrust of the originating bill remains — that is, a strong attempt to get help and assistance to victims of crime quickly, which is most important. The originating bill certainly had that thrust in it, and I am glad to see that primary thrust has been followed through with the amendments in this bill.

As we talk about this particularly sensitive issue it is important to note that the legislation is an attempt to treat victims of crime as fairly and equitably as possible. Without doubt the previous government made that attempt, and I believe earlier speakers have explained that clearly to the house.

I clearly remember the Auditor-General's report in 1995. In the report the Auditor-General — the independent umpire of the state, if you like — stated that over the five years from 1995 to 2000 the cost of criminal compensation allocated from that process would be about $630 million, which is a lot of money. In other words, the system was generating payments of about $100 million a year, and by the year 2000 could reach about $160 million. If my recollection is right, and I believe the Auditor-General's report raised some concern about this aspect, it means more than half the payments made to victims of crime — the people we are all concerned about — were for offences that were more than two years old. In fact, some were more than three years old.

It is clear from my research into the trauma experienced by victims of crime that all compensation, in whatever form should be provided as quickly as possible. When victims of crime receive compensation in dribs and drabs it brings back their terrible memories, and they do not want to be reminded of the crimes. Compensation can take many forms — for example, it can be for the payment of counselling expenses or to make up for the loss of salary forgone. Whatever form it takes, it needs to be made quickly, or it can have a deleterious effect on the unfortunate victim of the crime.

I noted from my research that before the Victims of Crime Assistance Act took effect in 1997, the level of community understanding of the victims of crime compensation system was low. Most victims did not know of or were not sure about what the system offered. That lack of understanding may have been one of the reasons for the delays of up to three years that sometimes occurred in compensation payments. My research also revealed that in 1995–96 the number of offences committed that could have led to compensation claims was 31 000 — a huge number — but only about 8500 people applied for compensation. I was concerned about those figures, and concluded from my research that the reason for them was that those who knew about the system applied for compensation and those who did not know about it did not. I do not know whether those who applied knew lawyers or solicitors or had contacts such as counsellors who steered them in the right direction, but I do know that those numbers are not fair and equitable. The act that was put into place in 1997 provided equity and fairness in those circumstances.

I then looked at the figures for 1998–99, when almost 36 000 victims of crime requested help with and information about compensation. One has to ask why that big jump in numbers occurred. I believe one reason was that under the procedures then in place the police informed victims of crime with whom they came in contact what they could do about receiving compensation. I have no doubt that those victims were traumatised and looking for help, and that information

was given to them at a time when the events were fresh in their minds and they were able to act on it.

It is true that the right to claim compensation for pain and suffering was removed in 1996. However, to be fair members of the government should recognise the wide range of substantial changes to provisions that were contained in the 1996 bill, including provision for primary, secondary and related victims. The bill also provided for a strong element of counselling, which was an important issue for victims of crime who were looking for help. I again make the point that while monetary compensation is always helpful, often what victims of crime seek and need the most is counselling to ensure that they can recover from their traumatic experiences. The 1996 bill also provided for the payment for loss of earnings, which is important in today's world, particularly for victims of crime who lose earnings through no fault of their own. The bill also provided for compensation for other losses reasonably incurred to be claimed.

The fundamental changes made by the Victims of Crime Assistance (Amendment) Bill are contained in proposed section 8A(5), which inserts four new categories of special financial assistance — categories A, B, C and D — in the form of a table that sets out the amounts applicable to each category of claim. I will not go through that table because it has been well covered by previous speakers.

I note with interest that proposed section 8A(6) allows flexibility within those categories in the awarding of such payments. The Honourable Roger Hallam mentioned that the bill results from a pre-election promise made by the Labor Party which it is now putting in place. I also note from the second-reading speech that the government has allocated $45 million as compensation to victims of crime to be staggered over the next three financial years. I suspect that the best intentions of any government would be to guard against a future blow-out in the allocation of that money such as was occurring in 1996. I urge the government to keep a close watch on the trends as the application of the new system starts to bite.

All honourable members feel for victims of crime. However, as I read through the bill and look at the amounts I cannot help but think, whichever way I look at it, that it is simple tokenism. Victims of crime want a bit more than a symbol, as referred to in the second-reading speech. I have been fortunate not to have been a victim of crime. However, if I were, I would not be very impressed with mere symbolism. I would want all the help I could get as quickly as I could get it. I hope I am not being too cynical. I certainly would not be interested in the symbolism or tokenism that I see in the bill and have heard mentioned by honourable members during the debate. People who find themselves in the traumatic situation of being victims of crime need counselling and some financial compensation as provided for in the bill. However, I believe the tokenism that it also contains is unfortunate, given the hue and cry of the current government's pre-election promise.

I congratulate the government on having made provision for children in the bill; it is a worthy inclusion. The structure and philosophy of the 1996 originating bill remains unchanged — that is, that victims of crime should be given assistance as quickly and as humanely as possible to ensure that they get over their traumatic experiences.

The main change proposed by the bill is that the government has honoured its pre-election commitment and restored the right to claim compensation for pain and suffering. I do not oppose the bill.

Hon. A. P. OLEXANDER (Silvan) — It gives me pleasure to contribute to debate on the Victims of Crime Assistance (Amendment) Bill. The bill deals with an important and serious issue for Victorians who have suffered or continue to suffer as victims of crime. In doing so I acknowledge the fine contributions that have already been made by members of the Liberal and National parties. Both parties have an abiding commitment to assist in every way possible those Victorians who, through no fault of their own, find their lives and the lives of those closest to them disrupted and negatively impacted upon by criminal acts.

The opposition has resolved not to oppose the bill because although it builds on many of the excellent initiatives taken by the previous Attorney-General, the Honourable Jan Wade, and the previous coalition government, significant aspects of the legislation cause the opposition serious concern and misgivings, mainly about the direction in which the government is heading.

It is important to review some of the history relating to crimes compensation in Victoria because one never knows when a government may choose to change history. The house has heard in this debate and has read in debate in the other place how history is being changed.

In 1972 a Liberal government introduced compensation for crime victims under the Criminal Injuries Compensation Act. That covered expenses that were actually and reasonably incurred as a result of death or injury, pecuniary loss as the result of the inability to

work and other pecuniary losses including the loss of dependants of victims. The maximum sum prescribed in that legislation for pain and suffering was $3000. In 1972 not much was understood about the real impact of crime on victims and not much thought or effort was put into that area by government. Even so, minor amendments to the legislation were made in the 1980s by the then Labor government. The amendments were largely inconsequential and simply sought to build on the original legislation.

A visionary and groundbreaking change occurred in 1996 when the coalition government changed the focus completely. It concentrated on responding to the real needs of victims of crime. It was the product of a concerted government effort, working hand in hand with the community and professionals in the area. In her second-reading speech on the Victims of Crime Assistance Bill *Hansard* of 31 October 1996 records the then Attorney-General, Jan Wade, as having said:

> The government wishes to change the focus of criminal injuries compensation in Victoria by developing a scheme which is far more responsive to the needs of victims. Over the years a perception has developed that the needs of offenders have received a higher priority than the needs of victims. The government will address this perceived imbalance, in part through the creation of the victims of crime assistance scheme. The bill is an integral part of the scheme.
>
> The scheme will include:
>
> > …
> >
> > immediate counselling services for victims (to be known as the victims counselling scheme); and
> >
> > the establishment of the Victims Assistance Agency, which will refer victims of crime to appropriate services and coordinate resourcing of those services. There will also be an extra $2 million per annum to fund specific victim support projects.
>
> It is important to note that the scheme and the agency will operate within the context of many other valuable services provided to victims by government, both state and commonwealth, including Victoria Police and a variety of non-government bodies and individuals throughout Victoria.

Today the house is debating a bill, which, in true Labor style, tinkers at the edges of what was then a real and important reform in a crucial area. The bill does not contribute anything new to the process of victim compensation in Victoria.

History has shown that before and since 1972, honourable members have tried to come to grips not only with what constitutes adequate compensation — I emphasise the words 'adequate compensation' — for crime victims, but most importantly they have grappled, and the house today is grappling, with what constitutes the most relevant and appropriate form of government response to victims and their families.

For its part, the opposition strongly believes the objective of government should be so far as possible to restore victims of crime to the situation that prevailed before the crimes were committed. The opposition acknowledges that to a small degree, that involves money and financial payments, but to a larger degree it strongly believes any such restoration must involve support services that address the fear, anxiety, trauma and other human and psychological issues that debilitate many victims of crime and often prevent them from re-entering society. That is the opposition's primary purpose in debating the bill.

I refer to an article by Carolyn Webb in the *Age* of 10 September 1999 entitled 'Minister: don't forget victims'. The article is instructive and government members should pay attention to the federal minister's comments on the issue. It states, in part:

> The criminal justice system had much to learn about the impact of crime on victims, the justice minister, Senator Amanda Vanstone, said yesterday.
>
> …
>
> Senator Vanstone said victims could suffer financial loss, property damage or injury. Less obvious, but often just as devastating, were psychological wounds.
>
> 'Even relatively minor crimes like burglary can cause us shock, confusion, helplessness, anxiety, fear and depression', she said.
>
> …
>
> In the longer term, many victims no longer felt safe, and commonly saw themselves as weak or helpless, needy, frightened or not in control.
>
> Senator Vanstone said there was a societal trend towards 'restoration' of victims of crime, which she believed could help 'many, many more victims than could ever be compensated for by dollars'.
>
> Academics define restoration as a holistic approach, involving recognising victims' rights, community support and involving them in the legal process.

The act Jan Wade left Victoria introduced groundbreaking reforms and addressed the very issues that the federal minister referred to in that *Age* article. Speedy resolution was one of the biggest reforms of the new Victims of Crime Assistance Tribunal. It has been well canvassed in the debate that people waited for two or three years for restitution, thereby detrimentally impacting their recovery and re-entry into society.

In the original legislation Jan Wade provided for access to immediate counselling services for grief and trauma to be available to victims through a voucher system or through a help line, which would subsequently refer

victims to those services. Jan Wade also built a greater awareness of the support services through the then Victims of Crime Assistance Agency and its associated help line, which had never operated before in Victoria. She introduced that reform because the overwhelming evidence was that most victims of crime did not appreciate that they were entitled to assistance in the first place. The vast majority were not taking up any of the offers of assistance then on offer by the government.

As has already been well canvassed in this place, Jan Wade also established the primary, secondary and related victims categories and gave victims access to funds designed to restore them in practical and important ways. I will not go through the definitions of those categories because other honourable members have already done so.

As I said, the Labor government seems content merely to readjust the settings on a machine that has already been built — and built by somebody else. It always likes to beat the drum loudly and claim the moral high ground on social reform. Everybody knows that the Labor Party in Victoria is an imposter on social reform and as every day passes, more Victorians realise that fact.

The bill extends compensation to victims of crime on the basis of a significant adverse effect. That may include grief, distress, trauma or other forms of injury in various circumstances. It is important to recognise — this is where the debate seems to hinge — that the bill reintroduces compensation for pain and suffering under the victims of crime scheme.

Compensation at the top end of the scale is $7500 and at the bottom $100. Two intermediate categories allow compensation payments of $500 to $1000 and $1000 to $2500.

This whole debate is really about a question of priorities. The previous government believed that compensation for pain and suffering only indirectly assists victims' recovery from crime. Previous speakers have cited medical research that goes to the fact that while compensation may benefit victims it fails to alter the symptoms of psychological suffering. As a question of priority the former government decided to divert resources toward practical services that more directly assist in the recovery of victims and their restoration to the community. The fact is that decisions needed to be made about how to allocate financial resources to victims of crime at that time. The decision was made to allocate them in a relevant and appropriate way. That consideration should still be the guiding principle in a bill such as this, but it appears that this government is moving away from that principle.

Balancing the issues of fiscal and social responsibility is an important matter. In 1995 an Auditor-General's report on this area forecast that between 1995 and 2000 the cost of compensation via the Crimes Compensation Tribunal would be in the vicinity of $630 million. It was running at between $100 million and $160 million per year over the period, and the $160 million was towards the end of that time. Clearly the old system was running out of control and was on the way to insolvency. Not only was it fiscally reckless but it was too slow, with many awards being made more than two years after the event, and compensation was not accessible to the majority. In 1995–96 only 8500 victims of 31 000 claimable offences applied for compensation under the scheme. However, by 1998–99, after changes were introduced by the former coalition government, over 35 000 Victorian crime victims were accessing a range of restorative services via the new scheme help line. That is a huge turnaround, and it indicates that the reforms put into place by the previous government and former Attorney-General Jan Wade were well targeted and taken up and supported by the community.

I shall quote from an article in the *Herald Sun* of 5 November 1999 which reinforces that point. It is entitled 'Victim payments' and was written by Nicola Webber. The article states:

> Victims of violent crime in Victoria were given an average of $4702 in the past year to help them recover from their ordeals.
>
> …
>
> But the Victims of Crime Assistance Tribunal made 656 payments for assistance in the past year — a massive 429 per cent increase from 1997–98.
>
> The tribunal provides cash for victims to help pay for their counselling and medical expenses.

These are practical measures and on all the evidence they were taken up strongly by members of the community who were victims of crime. A 429 per cent increase is phenomenal for a program such as this.

Now we see that the government seems to be trying to move back to the past with this bill. Restoring pain and suffering payments may not only have a very negative psychological effect on victims who are suffering from self-esteem problems and do not need to be told that their pain and suffering is worth $100, $500 or $1000 or whatever, but also, and this will come home to roost for the government at some time, it will have very real fiscal impacts — it will take a fiscal toll.

There is a growing body of professional opinion in Victoria and Australia that indicates that to place a monetary value, particularly such a small or — as the government describes it — symbolic monetary value on human pain and suffering could lead to significant adverse effects of its own in the mind-set of victims who are suffering self-esteem problems as a result of their experience. To be told that the state deems their pain and suffering to be worth only $100, $500 or $3500 in some cases is not only insulting but represents a commodification of human suffering which many see as unworthy of any government.

Even more seriously, the advent of pain and suffering payments will necessarily place great financial strain on the existing resources of government and the services that are supported by the community and are working. These services are practical and assist people. They include grief counselling; fear and trauma counselling; counselling for re-establishing interpersonal relationships — something many people have problems with after a traumatic crime experience — and many other restorative measures that are in place at this time.

In the year following the introduction of the scheme budget estimates revealed that 12 000 Victorians were expected to go through the full level of counselling services. Surprisingly, the budget papers for 2000–01, the government's own budget, put that estimate at 8000 people. This represents an expected drop of 4000 in the number of people who are expected to go through the full counselling service set up by the previous government. In the budget documents this is put down to the introduction of impending legislation, which I assume is this legislation. It is a staggering thing!

What is the government really saying here? Is it trying to tell this Parliament and the people of Victoria that the number of people requiring counselling services as a result of crime in this state will be magically reduced because money has been paid to victims for their pain and suffering? That is an absurd proposition, and I personally do not feel that that is what the government is saying. The real story behind that budget statistic is that money had to be found to pay for the reintroduction of pain and suffering compensation. The $50 million which is budgeted for every year will have real consequences for practical services being offered to people in this state. We on the opposition side see that as a socially retrograde step.

The record of the previous coalition government in this area is strong. It does the current government no credit to attack the commitment of the previous government so far as victims of crime are concerned, and that is what government members have done in the other place and in this place. It is time that type of thing stopped because it does government members no credit. Jan Wade was one of the great reformist attorneys-general, and her record speaks volumes.

I will refer briefly to some of the major groundbreaking innovations that Jan Wade introduced when she was Attorney-General in Victoria. In 1993 she restructured the Victorian Community Council Against Violence to create task forces on victims of crime, violence against women and safer communities. She introduced majority verdicts in criminal trials to limit the number of unnecessary retrials and discontinuations of prosecutions. The government should know that a retrial can entail traumatic repetition for many classes of victims of crime and can have a very damaging effect on the quality of justice.

In 1994 Jan Wade continued the introduction of closed circuit television in our courts so that victims could give evidence without having to come face to face with the accused, another very important reform on behalf of victims of crime. She introduced the victim impact statements which have been referred to in this debate. They allow the appropriate participation of victims of crime in the court process. Jan Wade reformed laws relating to intervention orders to provide greater protection to victims, and in particular she introduced indefinite intervention orders against violent spouses and increased the penalties for breaching such intervention orders.

In 1995 Jan Wade evaluated the code of practice for sexual assault cases to improve police conduct in their dealings with victims. These are real reforms, difficult reforms — reforms a previous coalition government was prepared to tackle and achieve. The last reform to benefit victims of crime that Jan Wade undertook as Attorney-General was the Victims of Crime Assistance Act, amendments to which we are debating today.

The opposition will not oppose this bill. We will watch closely to see if these changes lead to the diminution of the restorative services that Jan Wade worked so hard to achieve for victims of crime in this state. We will be watching very closely — members opposite should make no mistake about that.

The government will also monitor the responses of victims to the symbolic awards for pain and suffering to ensure a negative response does not impede or slow down their recovery and restoration to society. I wish the bill a speedy passage.

Hon. D. G. HADDEN (Ballarat) — I support the Victims of Crime Assistance (Amendment) Bill. In doing so I am pleased to follow in the footsteps of the Honourables Jenny Mikakos and Bob Smith.

The purposes of the bill are set out in clause 1. They are firstly, to amend the 1996 act to enable primary victims of acts of violence to be given a monetary award for significant adverse effects experienced or suffered by them, and to increase the amounts that may be awarded to secondary and related victims in certain circumstances, and secondly, to amend the Sentencing Act to reform the process by which victims can recover compensation from the perpetrators in criminal proceedings without the necessity of having to commence civil proceedings against the perpetrator.

As was alluded to by the Honourable Carlo Furletti in an earlier debate, clause 4 substitutes proposed new section 1 in the principal act, which sets out the purposes and objectives of the act. The objectives are, in part:

> (a) to assist victims of crime to recover from the crime by paying them financial assistance …
>
> (b) to pay certain victims of crime financial assistance … as a symbolic expression by the state of the community's sympathy and condolence for, and recognition of, significant adverse effects experienced or suffered by them as victims of crime; and
>
> (c) to allow victims of crime to have recourse to financial assistance under this Act …

The proposed new section also provides that awards of financial assistance to victims of crime are not intended to reflect the level of compensation to which the victim may be entitled at common law or otherwise. The scheme provided by the act is intended to complement other services provided by government to victims of crime. I refer to the famous case of Fagan, where a mother was murdered while her children were at school, which was decided under the Criminal Injuries Compensation Act by Justice Anderson of the Supreme Court of Victoria, 1981, VR 887 at 889. The judgment states:

> The purpose of the act … is not to award damages of the kind comparable or analogous to damages which an injured party, as a plaintiff, might seek and recover from a tortious wrongdoer, but to give the victim of a criminal act or omission some solatium by way of compensation out of the public purse for the injury sustained, whether or not the culprit is brought to book, and whether or not the culprit might otherwise be liable to the victim.

That statement from as far back as 1981 has been followed in every subsequent case as the basis of seeking an award under the earlier criminal injuries compensation legislation. It was never intended to be an amount of damages that one victim could obtain through the courts analogous to damages; it was always intended to be some solatium, an acknowledgment by the community that the victim had been wrongly dealt with by a perpetrator.

To give some history I refer to 1998–99 report — the second annual report — of the Victims of Crime Assistance Tribunal, which contains some very interesting and apt statistics and information. I will quote from various parts of the report.

At page 3 it is stated that in 1998–99 the tribunal saw a 35.5 per cent increase in the number of applications lodged with the tribunal — that is, from 1200 in 1997–98 to 1627 in 1998–99. There was also a significant rise in the number of awards of assistance made. In 1998–99 the tribunal made 656 awards compared with 124 in the first year under the victims of crime assistance legislation, an increase of 429 per cent. The average award for assistance decreased by 31.8 per cent, from $6902.12 in 1997–98 to $4702.79 in 1998–99. Under the Criminal Injuries Compensation Act the tribunal also awarded compensation in 2195 applications, with the average award being $9413.03.

At page 15 the report provides details of the payments made in the financial years 1997–98 and 1998–99, including costs and disbursements. In 1997–98 the payments made by the tribunal totalled $51 020 360, and the total in 1998–99 was $29 356 061. Turning to page 16, the legal costs statistics provided by the report are divided into two components — legal costs and disbursements. The legal costs were $2 363 388 and disbursements were $981 211, a total of $3 344 599.

Under the heading 'Assistance and compensation' at page 17, the report states that during 1998–99 awards totalling $26 011 462 were held on trust for victims under 18 years of age by the Victims of Crime Assistance Tribunal. As at 30 June 1999, 3599 trust awards had been made totalling $31 221 947. Those awards are invested in bank deposits which earn interest.

Page 18 of the report gives details of average awards victims of crime assistance legislation. In 1997–98 the average award was $6209 and for the same period the average award under the Criminal Injuries Compensation Act was $7865. In the financial year 1998–99 the figures were $4702 and $9413 respectively.

The number of awards by victim category made under the Victims of Crime Assistance Act increased from a total of 124 in 1997–98 to a total of 656 in 1998–99. The number of primary victim awards increased from 109 to 559, and the number of secondary victim awards increased from 2 to 29. The number of awards made under the Criminal Injuries Compensation Act 1983 for the financial year 1997–98 was 5767, reducing dramatically to 2195 in 1998–99.

The second annual report by the Victims of Crime Assistance Tribunal, which is for 1998–99, has a table showing the locality of crimes by municipality for awards granted in the country. Awards granted feature strongly in some of our most popular rural centres such as the City of Ballarat, the City of Greater Geelong, the City of Greater Bendigo, the City of Greater Shepparton, the Shire of La Trobe, the Shire of Macedon Ranges, the Rural City of Mildura, the City of Morwell, the Shire of South Gippsland, the Rural City of Swan Hill and the City of Warrnambool. Awards granted under the Criminal Injuries Compensation Act totalled 769 and the number under the Victims of Crime Assistance Act dropped to 220.

Under the 1972 Criminal Injuries Compensation Act under Premier Hamer from March 1973 to November 1976 the maximum award was $3000. From December 1976 to September 1980 the maximum award was $5000. From October 1980 to October 1981 it was $7500. From October 1981 to March 1984 the maximum award was $10 000.

Under a Labor government the pain and suffering component was increased. From March 1984 to July 1988 the pain and suffering component was $7500, with expenses up to $3000 plus pecuniary loss calculated under the Workers Compensation Act and the Accident Compensation Act. Pecuniary loss could be paid up to one year. From 1 August 1988 until 1 July 1997 the pain and suffering component was a maximum of $20 000. The maximum award for pecuniary loss was $50 000, which included the pain and suffering component of $20 000.

Pain and suffering was abolished under the Victims of Crime Act passed in December 1996, which came into operation on 1 July 1997. I recall that period vividly because one of my major areas of practice as a barrister and solicitor during that period was crime compensation, in the main for women and child victims. There was concern about how it could be abolished and victims were worried they would be further victimised and made to suffer because the perpetrators were getting away with it yet again. It was a difficult period in which to explain to clients that as at 1 July 1997 pain and suffering went out the window and compensation for it was no longer available.

The bill reinstates what will probably be known in the community as pain and suffering but is described in the bill as an award of special financial assistance for victims of crime.

Victims, as defined in clause 7 of the bill, are divided into three categories — primary, secondary and related. Primary victims are those directly injured or killed as a result of an act of violence, and secondary victims are those injured as a result of witnessing a crime, or parents of child victims. Eligibility for an award has not changed and is based on the balance of probabilities as opposed to being beyond reasonable doubt as is required in a criminal trial.

Clause 20 covers child victims so that from 1 January 2001 they will be covered for crimes committed against them from 1 July 2000. Also included are child victims who have suffered from an act of violence that occurred on or after 1 July 1997 or where the offender has been committed for trial on or after 1 July 1997. Importantly, the victims have two years from 1 July 2000 to lodge an application for an award.

Clause 18 allows not only for applications for variations of awards but also additional time — in particular, child victims have six years from the date of the original award to lodge an application for variation.

Clause 21 refers to section 86 of the Sentencing Act, which deals with the ability of a victim to apply to the sentencing court for compensation. I have not heard of anybody obtaining compensation in that fashion. That concerns me because victims who are complainants in criminal trials should be encouraged and educated throughout the process from the time they have lodged complaints with the police to make applications for compensation from the defendants or accused. The perpetrators and offenders should be liable for the harm they cause to the victims. They should be made to pay where possible. I do not think they should get off lightly, certainly not at the expense of the public purse.

Criticism has been expressed to the effect that the offender should not have to be victimised again by having to pay money to the victim as well as serving a term of imprisonment. A popular saying among the criminal legal fraternity is, ‘If you do the crime you do the time’.

The Bracks government believes section 86 should be retained so that offenders are made to account to their victims. The situation should be looked at from the point of view of the victim. In a criminal matter there is

a complainant, the police and those advising the victims on their rights. That is an important right with which victims should be acquainted.

There has been criticism that a victim's application for compensation restitution under section 86 of the Sentencing Act would be a burden on the offender. As I said previously, that is too bad! The offender should have thought about that before he or she went down that path. The victim should not be limited to receiving an award of financial assistance through that avenue because of some ill-conceived view by some in the community that the perpetrator should not pay. There is a difficulty with victims applying for compensation under that section. I have not seen statistics on it; I have asked and apparently they are not available. Certainly that avenue of recourse should be encouraged.

The purpose of the bill is relatively simple: to provide assistance to victims of crime. The Bracks government made an election campaign commitment to reinstate from 1 July this year compensation for pain and suffering. That policy commitment will cost an estimated $60 million over four years.

I have received criticism from members of the legal fraternity that the range of awards to be reintroduced under the bill is not enough and that the maximum of $7500 is not sufficient. Frankly, nothing would ever be enough to compensate a victim of crime, and some victims consider any amount to be an insult. That probably reveals why some victims do not even apply for compensation or financial assistance. The government cannot write an open cheque for victims of crime; no responsible government is able to do that.

Another criticism from members of the legal fraternity who have contacted me is that children who are still living with the trauma of assaults perpetrated against them before 1 July 1997, and who have not yet disclosed those offences to the police, will not be eligible for the special financial assistance, except for counselling assistance, and that that situation is contrary to article 2 of the United Nations Convention on the Rights of the Child.

Although I am sympathetic to those views the reality is that the former Kennett government did not give a hoot about the United Nations Convention on the Rights of the Child when it abolished compensation for pain and suffering for victims of crime, operative from 1 July 1997.

Other sections of the bill have been thoroughly elaborated on by previous speakers and I will not revisit that ground. The bill goes some of the way towards rectifying the damage that has been done in the past three years by not providing special financial assistance to victims of crime. I hope the intent of the bill is obvious and that it is supported by both sides of the house. On that basis I commend it to the house.

Hon. E. J. POWELL (North Eastern) — I am pleased to contribute to the bill, which the National Party does not oppose. The Honourable Roger Hallam and you, Mr Deputy President, gave one of the reasons for that — the National Party acknowledges that Labor made an election promise to reintroduce compensation for pain and suffering to victims of crime.

As a new member of Parliament in 1996 I well remember the debate on that bill. Although I was concerned about the removal of compensation for pain and suffering, the debate disclosed that in some cases people did not receive compensation until two or three years after the event. That is clearly not appropriate and there had to be a better way. During that time victims became frustrated, angry and more stressed.

It is important to note that the Transport Accident Commission and Workcover believe that recovery counselling needs to be initiated straight after an incident or accident. I believe that is also true for victims of crime. The former government's legislation provided payments for counselling, medical services and pecuniary loss of up to $20 000 for victims of crime.

Although pain and suffering lump sum payments were removed, other initiatives were put in place to compensate, such as the referral vouchers from police and the referral telephone service. If required, victims of crime were able to immediately access counselling services. That was a way of genuinely helping victims of crime, whether they were personally injured, under stress or had suffered trauma.

Members of the government side of the house said the Kennett government was uncaring and unfeeling and removed the rights of victims of crime. During the 1996 debate many honourable members listened carefully and took into account both sides of the argument. They felt very strongly that victims of crime needed genuine help in the form of counselling and that it was not just a matter of money. Under that legislation victims of crime received referral vouchers or the telephone numbers of referral services and were able to get help immediately. The number of people who received full counselling almost doubled.

Many speakers have referred to the detail of the bill so I will not go over it again. I shall refer specifically to

proposed section 8A(5) at page 6 of the bill, which refers to the categories of acts of violence. I look at the minimum and maximum amounts and wonder who put those amounts in the bill. For example a rape victim receives a minimum amount of $3500 and a maximum of $7500. The second-reading speech states that if there is sufficient significant adverse effect on a rape victim the maximum will apply. I wonder who will judge the degree of adverse affect. Honourable members may know people who have been raped, and each person is different and sees the act of violence differently. Who will assess whether the victim is adversely affected and decide whether the minimum or maximum applies?

Subsection (5) of proposed section 8A to be inserted by clause 7 sets out the minimum payment for victims of crime of $100. That may recompense some victims of crime for stolen property, but it does nothing to help people who require counselling. People who have been burgled have told me that they are traumatised by the fact that someone has entered their house or flat and disturbed their property. The flat next to mine was burgled about a month ago, and the woman tenant said that she can no longer go back to the flat. That has affected me because I live next door. Someone entered the flat in broad daylight and removed her video and television set. I am conscious of the fact that I need to lock my doors and windows. While the payment of $100 may assist someone to replace the property stolen if that property is not insured, it will not help the person who has been traumatised because she is aware that someone has entered her home, touched her belongings and gone through her personal effects. How do you compensate that person for pain and suffering?

The second-reading speech says that compensation is an expression of community sympathy and concern for a person who has suffered a violent crime. The government says it put this policy to the people at the last election, but I am concerned that these amendments demonstrate a token concern which may cause insult to victims of crime.

Mr Deputy President, you referred to the fact that the second-reading speech has a political bias. I agree with that. That should not happen. A second-reading speech should reflect the intention of the amendments and not in any way demonstrate a political bias.

The second-reading speech is critical of the Kennett government. I join with my colleagues who put on the record the fantastic work the former Attorney-General, the Honourable Jan Wade, did for the Victorian community. Given that almost 90 per cent of victims of crime are women it was appropriate that the former Attorney-General took a leading role.

Along with my colleague, the Honourable Maree Luckins, I was part of a seven-member committee that travelled throughout Victoria and examined issues such as safety, education and justice — all the things we have talked about today. Members of Parliament were invited to host public meetings so that people could put their concerns. The committee produced two excellent documents entitled ‘Women on the move’. One section dealt with women and the justice system. I will refer to just a few of the initiatives proposed by the committee, because there are pages of them.

The minister’s second-reading speech said that governments need to take into account the special needs of people living in regional Victoria, especially the Aboriginal community and the linguistically diverse communities. The ‘Women on the move’ documents refer to developing partnerships between justice agencies and Aboriginal communities and improving the outcomes of the justice system for Aboriginal people. The document states in part:

> Consult with Koori communities to develop a family violence strategy, including family strengthening models to promote education, prevention and early intervention responses to family violence.

During the consultation process people indicated that they wanted additional outreach services to take into account issues relating to the justice system and indigenous communities. People need to be more aware of the problems.

Opposition members have already referred to some of the initiatives the former Attorney-General put forward. One such initiative was expanding the availability of videoconferencing, remote circuit television witness facilities and videorecording of evidence in courts. They are important issues for women, who often do not want to give evidence in courts. The document further states:

> Identify and communicate the issues confronting culturally and linguistically diverse families and women through police Operation Ethos. Lectures are designed to meet the needs of culturally and linguistically diverse women and to focus on the personal safety of women in their homes and social environment.

The document also states:

> Support a newly implemented training program for police with specific reference to the issues faced by Aboriginal women in violent family situations. This training program has been developed with two objectives: to sensitise police to indigenous and gender issues; and to educate the Aboriginal community about police procedures and options to address family violence.

A number of issues related to working with support services for people affected by violence. The community also told the committee — something the former Attorney-General took on board — that there was a need for more refuge supports which are linguistically and culturally responsive. The document also states:

> Maintain crisis support which is culturally and linguistically appropriate and responsive by recognising the diversity of the needs of women from culturally and linguistically diverse backgrounds.

The government has said it will look at initiating such programs. I ask members of the government to examine the initiatives set out in 'Women on the move'. The government should grow those programs. The document further states:

> Develop information in formats and languages appropriate for women with disabilities, a best practice guide for use by women's refuges and a peer support project for women with disabilities experiencing family violence.

There was an acknowledgment that some people had special needs and required increased after-hours access to information, support and referral for women and children experiencing family violence. The former Attorney-General ensured that separate rooms were available for witnesses in all new court buildings and in refurbishments where possible. That is particularly important for rape, domestic violence and child victims. It is stressful to be in the same room with the person who has committed the crime.

In response to the minister's second-reading speech, which implied that the Kennett government was heartless and treated victims of crime in a terrible way, I put on the record my appreciation of the work of the former Attorney-General, the Honourable Jan Wade. Although the National Party does not oppose the bill, it is important to set the record straight. I wish the bill a speedy passage.

Hon. KAYE DARVENIZA (Melbourne West) — The Victims of Crime Assistance (Amendment) Bill implements another of the Labor Party's electoral promises, which on this occasion is to reinstate pain and suffering compensation for victims of crime. The Labor Party made that commitment because victims of violent crime had not been able to obtain compensation for pain and suffering since the former Kennett government introduced the Victims of Crime Assistance Act in 1996, which took effect in July 1997.

Honourable members opposite have claimed that in removing compensation for victims of crime the former government was not heartless or showing disregard for the suffering victims of crime went through, but they were members of a government that removed compensation from the principal act. To understand the real situation honourable members need only cast their minds back to the statements made by the former Premier on 3AW about victims of crime receiving compensation. No wonder people think the former government was heartless and cruel in taking away that compensation. The comments made by the former Premier gave every indication that he was heartless. No wonder the former government is now the opposition when that was the attitude it took to Victorians who had suffered violence.

The Bracks Labor government is committed to consultation. It sees the bill as introducing a comprehensive process of consultation. The government believes in compensation and made a promise that it would reinstate compensation for victims of crime and allocate a significant amount of money for that purpose — in fact, $45 million staggered over three years.

In December 1999 the government set up a review committee to consider how it should implement its policy to reintroduce this important level of compensation. The government wanted a system that was fair, equitable, and financially sustainable. The committee included representatives from many interested stakeholders and from a network of victims assistance programs. The Centre Against Sexual Assault, the Community Council Against Violence, and the Victims Referral and Assistance Service were just some of the organisations represented. The committee consulted widely within the community. The bill is firmly based on the recommendations made by the committee to the government.

The bill does a number of important things. It demonstrates the government's commitment to providing a comprehensive system to assist victims of crime in their recovery. The government is looking at a comprehensive package. One thing it wants is a forum where victims can receive a sympathetic and compassionate hearing and be given the opportunity to tell their stories. The Victims of Crime Assistance Tribunal is that forum. A hearing is important because it gives the victim an opportunity to have his or her say, to tell his or her story and to have it listened to sympathetically and compassionately.

It is important to provide to a victim the recognition that violence has occurred against him or her. It is also important because it gives those who have experienced a traumatic event the opportunity to have their say, to be given recognition, and to be able to move on and get

on with their lives and not have the traumatic situations they have been through colour their lives now and in the future.

If a victim of crime has suffered substantial harm after violence against him or her, the scheme also provides an opportunity for the state to make a payment on behalf of the community. Again, this is about recognising that a member of the community has suffered victimisation and has been through a traumatic event.

It has been pointed out by previous government speakers that the bill is part of a package or a scheme designed by the government to provide assistance and services to victims. A range of services is provided to victims, such as a counselling scheme that is available in both metropolitan and regional areas. Services have been set up to meet the special needs and circumstances of a victim of crime. The scheme takes into consideration whether someone is from an Aboriginal or a culturally and linguistically diverse background, and also whether a person may suffer from a physical or mental disability. The system is designed to provide services and assistance to everyone, including those who have special needs, whether it is about where they live or some special individual needs.

The scheme also provides for a person who has committed an offence to be financially accountable where possible, and this is an important part of the scheme. It allows the state to seek reimbursement of moneys that have been awarded to a victim. It allows the state to pursue the person who has been convicted of the crime and to have the money reimbursed by the person who committed the crime, and it allows the victim to seek compensation directly from the offender who is found guilty of the crime.

The bill makes a number of amendments to the Victims of Crime Assistance Act. Firstly, the bill will reintroduce compensation for pain and suffering, now known as awards of special financial assistance for primary victims who suffer an injury or other adverse effects as a direct result of an act of violence. Secondly, it will extend the class of victim to include a person who has been a witness at the scene of a crime, and parents and guardians who later find out their child was a victim of an act of violence. They will be eligible under the amendments to seek payments in exceptional circumstances.

Under clauses 7 and 8 the bill also sets out a proposed model for the awarding of special financial assistance. It is aimed at promoting greater predictability and uniformity in the decisions that are made by structuring award levels based on two factors: the first factor is the seriousness of the offence, with higher awards made for more serious offences such as rape and incest; the second factor takes into account the impact on the victim. Minimum awards are available.

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

Hon. KAYE DARVENIZA — Prior to the suspension of the sitting I said that the award structure is based on two factors: the first is the seriousness of the offence, which I have already talked about; and the second is the impact on the victim. Minimum awards are available to those suffering from grief, distress or trauma as a result of acts of violence, and more compensation is available to those victims who also suffered direct injuries as a result of acts of violence.

Hon. N. B. Lucas — Are you just filling in time, Kaye?

Hon. KAYE DARVENIZA — Never, Mr Lucas.

Hon. N. B. Lucas — There is no government business, so you keep talking. Give us some more business!

Honourable members interjecting.

Hon. KAYE DARVENIZA — The government has already made it clear that there are a number of bills it would be more than happy to debate. Unfortunately the opposition is not prepared to debate them.

An advantage of the new system is that the award levels have been set to promote equity and to be financially responsible. Another advantage is that no threshold has been set below which compensation is not payable, which was the case prior to 1997. The government believes victims should not be denied access to compensation just because the entitlement they might receive is small. A wider class of victims will now be entitled and eligible to seek financial assistance. Another advantage is that it will not be necessary for victims to prove injury to gain access to compensation.

The overall entitlement of an injured primary victim will be at its highest — I stress that point — since the Crimes Compensation Act was first introduced in 1973. The government is committed to reviewing the award levels after three years of operation and to assess whether any changes need to be made.

Retrospectivity is an issue about which a number of government members have spoken. As a government, we would like to be able to undo the many injustices we saw in a whole range of services and areas under the

Kennett government's crimes compensation system. Crimes compensation was not the only area where there were injustices; we saw it in Victoria's hospital and education systems and in the reduction of the powers of the Auditor-General, to name just a couple. We would very much like to be able to undo those injustices, but we have to be responsible, and the burden that retrospectivity would impose on the community would be far too great. Prior to 1997, awards for compensation amounted to between $40 million and $50 million each year. A three-year liability of that proportion would be far too heavy a burden to impose on the community.

The bill also provides new mechanisms to improve the process for victims to apply for and gain compensation directly from offenders.

An Opposition Member — What are they?

Hon. KAYE DARVENIZA — There are a number of them. One mechanism is that applications for compensation by victims of crime will be accepted up to 12 months after the offenders are convicted or found guilty, and not 6 months, which is the current provision. The bill also provides for an extension of that time if it is believed to be in the interests of justice.

A second mechanism is that courts will be able to take into account the expanded definition of 'injury', which will enable those who suffer from grief, distress or trauma to apply for compensation.

The third point is that the courts will have regard to a wider range of documents that may be taken into consideration. The courts will be able to award compensation on a wider range of issues, including medical costs and other expenses.

The bill is important. Prior to the last election the government made a commitment to rectify the unjust and cruel changes made by the previous government when it removed the right of a victim to claim compensation for pain and suffering. The bill goes a long way towards restoring and putting in place a system that is fair, equitable and looks after the interests of those who unfortunately find themselves the victims of crime. I commend the bill to the house.

Hon. T. C. THEOPHANOUS (Jika Jika) — I shall briefly contribute to debate on the Victims of Crime Assistance (Amendment) Bill. Its introduction is part of an election commitment by the Labor government to reinstate compensation for the pain and suffering of victims of crime. It became necessary because the previous government abolished compensation previously payable to such victims.

I have listened to opposition members contribute to the debate, and their hypocrisy is breath taking. When in government members of the current opposition parties told the house why it was necessary to remove victims' rights. Having lost government last year and finding themselves in the political wilderness, they have suddenly found a conscience. The Honourable Roger Hallam tried to defend the indefensible. He bleated about how, according to him, the former Attorney-General, the Honourable Jan Wade, had been so maligned for all her positive measures.

Jan Wade was responsible for removing the rights of victims of crime. Now the Labor government is restoring those rights. The bill gives fair and equitable compensation to victims of sometimes horrendous crimes.

The hypocrisy of opposition members is even more blatant when one remembers that the then Premier's justification for removing the rights of victims of crime was that a woman had the audacity to purchase a red coat with the money that had been awarded to her. Consequently, the Kennett government saw fit to remove compensation for pain and suffering for all victims of crime.

That action was a disgrace; it was done in the context of the then Premier running around telling everybody who would listen about his right to sue people for hundreds of thousands of dollars compensation because his feelings had been hurt. Yet he intended to remove the small amount of compensation then available to people who may have been seriously injured through no fault of their own but as a result of violent crimes. That was another example of the hypocrisy of the previous government and shows how ordinary people suffered at the hands of that callous and cruel administration. Victorians ultimately saw through the Kennett government and kicked it out.

The opposition parties have nothing to say about the bill and will not oppose it because they are trying to pretend they did not mean to remove victims' rights in the first place. What a pathetic excuse! One would have expected that people of integrity in this place would at least have stuck to their beliefs.

Hon. N. B. Lucas — That cuts you out.

Hon. T. C. THEOPHANOUS — Few members on the opposition benches could be described in that way. If they had any integrity they would not have agreed with Jeff Kennett when he walked into the party room and said, 'Let's get rid of the rights of victims who have been injured as a result of violence'. Not one opposition

member who has today supported the bill was prepared to get up in the party room and object.

Hon. N. B. Lucas — How do you know? I was there and you weren't.

Hon. T. C. THEOPHANOUS — Mr Lucas comes in here with his smart alec comments, but he was not prepared to stand up to Jeff Kennett. So much for his integrity! He is happy to support the bill, but the debate obviously makes him uneasy.

Many people become victims of violent crime. It is part of the philosophical approach of the Bracks government to look after people who have been injured through no fault of their own. Although the bill does not directly cover that aspect it exemplifies the overall philosophical approach of the government.

There are crimes committed, for example, in the workplace by some employers — a very small number, I hasten to add — who have no regard for their employees and cause horrendous accidents. In those circumstances the government has seen fit to restore the common-law rights of those people so they can get compensation when somebody causes them injury.

Hon. K. M. Smith — We should get compensation for you coming in here and boring us.

Hon. T. C. THEOPHANOUS — I know Mr Smith does not like listening to these things; he cannot stand his own hypocrisy.

When this government talks about victims of crime it can be crime that occurs in the workplace, but crime can occur anywhere: it can occur at the pub, at the footy or on the road — it can even occur in the Parliament House car park. An honourable member in another place was particularly outraged because she thought that somebody had violated her car, having given it a nudge. From the way the honourable member was carrying on I thought she was going to try to seek compensation as a victim of crime!

Hon. Jenny Mikakos — She would not get over the $200 threshold at the moment.

Hon. T. C. THEOPHANOUS — She might not get over the $200 threshold, especially as she already had another car on order. She had a car on order and has now picked it up — so much for the crocodile tears of Andrea McCall.

That honourable member made a very interesting contribution in another place to debate on this bill. The other form of violence that occurs in our community is domestic violence. It is a form of violence which I expect is abhorrent to most members. I note that the issue of domestic violence was the subject of considerable debate in another place. A member of that place indicated to that house that her husband was the victim of domestic violence as she had hit him over the head and knocked him out with a Le Creuset frying pan. I do not know whether under present circumstances the husband would be eligible for compensation under this bill had he been in Victoria; I suppose it depends on the extent of his injuries. It just goes to show that there are forms of domestic violence and other violence in criminal activity which can result in injury, often very serious injury, to people in our community. As a result of the actions of the previous government for a period of about three years these people have had no access to compensation.

Time and again when bills are brought before the house, whether it be legislation dealing with the Auditor-General or restoring common-law rights or restoring the rights in this bill, we see the opposition supporting the legislation as it goes through, but each and every one of the members opposite was part of a government in which none of them was prepared to stand up to the previous leader and say, 'Hang on a minute, we do not really support this'.

Hon. D. McL. Davis interjected.

Hon. T. C. THEOPHANOUS — Mr Davis was part of that government. If he had had any guts back then he would have done something about it, but he did not have any guts and that is why he is in opposition. Members opposite are in opposition because they were not prepared to stand up for a principle. You do not change your principles every time there is an election; you have principles that you keep. If members opposite really do not believe these people should get compensation they should be voting against this legislation. Members opposite should not be coming in here and voting for it and then on another occasion voting against it because the previous leader of their party is gone. Time and again we have seen that this opposition has absolutely no credibility when it comes to these pieces of legislation.

I am happy to put my support for this bill on the record. It is another piece of legislation that brings back fairness and justice and some sense of decency to the Victorian community. I am happy to support the bill, and I hope all other members will support it also.

Honourable members interjecting.

The PRESIDENT — Order! Mr Theophanous, you can sit down. You have had your go, just sit down.

Hon. K. M. SMITH (South Eastern) — I came into the chamber after the suspension of the sitting expecting to hear a couple more credible speakers. Members from the opposition side and the other side have spoken in a very balanced way on the bill. However, after listening to Mr Theophanous waffling for probably the past 20 minutes I felt compelled to get up and speak because he was talking absolute rubbish, as he usually does in this house. What annoys me most is that when we made changes to the legislation — —

Hon. T. C. Theophanous — You were one of the gutless ones; you didn't stand up to Kennett.

Hon. K. M. SMITH — Our party had a very balanced debate on the Victims of Crime Assistance Bill when it was introduced and when we made the changes to the act while in government. I was very comfortable with the act at the time, and I am still comfortable with it.

As a party we agreed not to oppose the bill and in a way to let the government have its head in bringing back some of the financial assistance to the people. We do not believe waving a fistful of dollars at people will make them feel any better. We do not believe the government's proposal will make people feel any better. After a long debate in the party room we agreed to what the government is doing.

Honourable members interjecting.

Hon. K. M. SMITH — I will not go into discussions of what we talked about, but we have agreed not to oppose the bill. Mr Theophanous got to his feet and talked about Kennett rolling over us all. The original bill was brought in by Mrs Wade, the then Attorney-General. We had good reason to introduce that bill because, as I said a few moments ago, it was not about a fistful of dollars. It was about us looking after people, caring about people; it was about paying their medical bills.

It was the former government being able to care about people enough to say, 'We will look after you if you are a victim of crime. We will look after you and compensate you with the right amount of counselling that you may need' — ongoing counselling, not 5-minute counselling — 'to help you over the trauma that you have suffered in your life. If you have had some problems with medical costs, we will pay for them. If you are in a position where you are incapacitated and need help in your homes to put in ramps and such things, they will be paid for'. When in government the Liberal Party offered people unlimited counselling to try to get them through the trauma. I thought that was what it was all about — trying to help people, not throwing a fistful of dollars at them. Now Labor is back in government and it is throwing around the fistfuls of dollars that were saved by the Kennett government. Labor has just got a handful of dollars and is throwing money out to everybody left, right and centre — dollars here and dollars there. It is saying, 'Let us give them their money!' That is the biggest problem opposition members have with government members — they are going to throw our money out like it was theirs. The trouble is it is not theirs; it belongs to the taxpayers. Labor members do not care whether people have been hurt or wounded because they have been attacked and are victims of crime. All they care about is trying to win the populist vote and they think the bill will do it for them.

I see Bob Smith is nodding his head. Unfortunately the Hansard reporters cannot see him, but I can see him nodding his head in agreement with everything I am saying. It is true. I am appalled at what Mr Theophanous put up. It was typical Mr Theophanous, and typical of the way he talks in the chamber.

Honourable members interjecting.

Hon. K. M. SMITH — He has been found guilty of lying in this house, and nothing has changed. He has been found guilty in this house!

Hon. T. C. Theophanous — On a point order, Mr President, I take strong exception to the language used by Mr Smith. Not only is it objectionable to me but it is also untrue factually.

Hon. K. M. SMITH — On the point of order, Mr President, I am only being factual. Mr Theophanous was found guilty of lying to the house. I am not telling an untruth; I am telling the truth. Mr Theophanous does not tell the truth; he lies.

The PRESIDENT — Order! That expression is unparliamentary, and whether it is true or not true it is still unparliamentary. The Honourable Theo Theophanous has taken objection to it and I ask the Honourable Ken Smith to withdraw.

Hon. K. M. SMITH — I withdraw, Mr President. I am glad we had a little break because it gave me an opportunity to look at my copious notes. I put on record that Andrea McCall, the honourable member for Frankston in the other place, parked her car in the Parliament House car park — —

The PRESIDENT — Order! The bill deals with victims of crime. Mr Smith had better relate what he says to the bill.

Hon. K. M. SMITH — I will, Mr President.

The PRESIDENT — Order! Mr Smith knows the rules of the house. I have warned the Honourable Theo Theophanous. I will not make an exception for Mr Smith.

Hon. K. M. SMITH — I would not either, Mr President, but someone whose car is run into and is a victim of a hit-and-run accident suffers emotional trauma, so it is no wonder I want to mention the exposure of Mr Theophanous as a hit-and-run driver. It was in the car park here! Andrea McCall, the honourable member for Frankston, was absolutely devastated at what occurred to her car out there.

Hon. T. C. Theophanous — On a point of order, Mr President, I am aware of the public debate on the issue and that an honourable member has raised it in another house. I am also aware that you, Sir, rule on or at least give some guidance on the issues raised with you. I am happy for honourable members to debate such issues in the house but if that occurs it ought to occur on the basis of everyone in the house being able to enter into such debates.

Therefore if the honourable member wants to talk about an incident that involves me and wants to make slanderous remarks about it, you, Sir, ought to rule either that he has to do so by substantive motion, as you have done in the past, or that if he is to be allowed to continue then it ought to be allowed for all members, which means that I would have the right to raise, for instance, some matters relating to his pecuniary interest forms.

Hon. K. M. SMITH — Go ahead!

The PRESIDENT — Order! The matter raised by the Honourable Ken Smith suggested that Mr Theophanous was a hit-and-run driver in a general sense. A hit-and-run driver means someone who has broken a criminal law. It is a crime to be involved in an accident, head off and not leave your name and address. There has been no such finding as I understand it against Mr Theophanous. He assures the house that that is not the case. He has asked for a withdrawal. I ask Mr Smith to withdraw.

Hon. K. M. SMITH — I withdraw, Mr President. It is amazing how some people in this house, such as Mr Theophanous, are more than happy to tip the bucket on people but when the truth comes out about their little misdemeanours they are not too happy about accepting them.

I was compelled to get to my feet to refute some of the rubbish that Mr Theophanous was talking about, as he usually does in debates. When it made changes to the victims of crime assistance legislation the former government made decisions on all the right advice. They were the right decisions at the time.

The opposition has said it will not oppose the bill. However, I do not believe that throwing a fistful of dollars at people will make them feel any better. I believe that caring about people will make them feel better. I believe that the right counselling and the right compensation so far as looking after them with all their medical costs and so forth is concerned is the way to go. Each time Mr Theophanous gets up in this house and talks absolute rubbish, I will get up and put a few facts on the table. If Mr Theophanous want to raise the matter of my pecuniary interests, that is fine by me. If is to be the case, Mr President, I am more than happy to talk about things that were sold out of chemist shops not so long ago. Is that okay, Mr Theophanous?

In conclusion, I am more than happy to say that the opposition does not oppose the bill.

Hon. S. M. NGUYEN (Melbourne West) — I am delighted to debate the Victims of Crime Assistance (Amendment) Bill. It is a most important bill for victims of crimes. It is also important that societies such as ours have policies to protect individuals and families in the Victorian community.

Prior to its election in 1999 the Bracks government promised to bring back support for people with a family member who had been a victim of crime. The bill will help families in such situations. Listening to the arguments on both sides I believe that honourable members are trying to have the bill passed not just for those who have suffered loss through their families but also to ensure that everyone has a fair go and gets support, particularly the poor, who often cannot cope with the burdens of life after a family member has become a victim of crime and is murdered or injured.

The newspapers report that members of the community would like to have their cases heard. To summarise the newspaper articles, many daughters or wives, especially women who cannot protect themselves, are targets of crime. The *Herald Sun* of 24 May reports that a young woman was murdered at the Fawkner Cemetery on 1 November 1997 while putting flowers on a grave. The family of the murdered victim should have received support from the government and the

community, and funds should be available to ensure families of such victims receive proper compensation. When the Kennett government was elected it removed such measures. The *Age* of 24 September 1998 reports under the heading 'Wade defends crime victims' service':

> The opposition criticised the freecall hotline, part of the government's victims of crime assistance service, after documents obtained under freedom of information laws showed that on some days no calls were received by the service at all.
>
> Telephone bills from August 1997 to November 1997 show that fewer than 10 calls were received on most days …

The Bracks government is reintroducing services to families who most need them. Before the last election the Bracks government campaigned on education, law enforcement and social service policies to make the community aware of what the government can do to help when people are in crisis. The child of some friends of mine was murdered and the family did not know where to get help or how to organise the funeral and so on. They may have been surrounded by friends and family who supported them to ensure they could recover as soon as possible, but they could not obtain support or counselling.

Now the community can have an input. The government will provide about $60 million over four years. It is not easy for people to get support to help them return to a normal life. The Attorney-General when in opposition always fought for community access to better services.

The former Attorney-General, Jan Wade, was questioned many times about such services and the loss of funding. The bill is important for victims of crime, and families require the support of the government.

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

Bells rung.

Members having assembled in chamber:

The PRESIDENT — Order! As the passage of the bill requires to be passed by an absolute majority, I ask honourable members not opposing the passage of the bill to stand in their places.

Required number of members having risen:

Motion agreed to by absolute majority.

Read second time.

Third reading

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

> That this bill be now read a third time.

I thank Mr Furletti for his question about the objectives. The objectives currently exist in section 6 of the act; they have been moved forward and enhanced.

I also thank Ms Mikakos and Mr Hallam, who asked a question about retrospectivity and the associated costs. The $40 million to $50 million is based on the old scheme and the old amounts that would be paid. That is why there is a difference in the casting of the dollars and cents for the retrospectivity, and the $45 million over the three years.

I also thank Mrs Luckins, Mr Bob Smith, Mr Bishop, Mr Olexander, Ms Hadden, Mrs Powell, Ms Darveniza, Mr Theophanous, Mr Ken Smith and Mr Nguyen for their contributions.

The PRESIDENT — Order! So that I may be satisfied that an absolute majority exists, I again ask honourable members supporting the passage of the legislation to stand in their places.

Required number of members having risen:

Motion agreed to by absolute majority.

Read third time.

Remaining stages

Passed remaining stages.

JURIES BILL

Council's amendments and Assembly's amendment

Returned from Assembly with message agreeing to a Council amendment, disagreeing with another Council amendment and seeking concurrence with a further Assembly amendment.

Ordered to be considered next day.

ADJOURNMENT

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

> That the house do now adjourn.

Geological Survey: appointment

Hon. PHILIP DAVIS (Gippsland) — I raise a matter for the attention of the Minister for Energy and Resources. On 8 December last year, in response to a question without notice from me concerning the targeting for retrenchment of Mr Tom Dickson, the then manager of Geological Survey, the minister responded by denying involvement in the matter. The minister said in part:

> It may have been the practice of the previous government and previous ministers to interfere in departmental decisions …

She further stated:

> … it is not my intention to intervene to change decisions of that nature by the department.

As a consequence of a freedom of information request a document was released to me last week. The document is dated 11 January and the time is 11.25 a.m. It is an email from Mr Terry Bowman, a human resources officer in the department, to the then acting secretary of the department, Richard Rawson. It states:

> You would be aware that Tom —

meaning Tom Dickson —

> and Michael Taylor —

the then Secretary of the Department of Natural Resources and Environment —

> signed a three-months employment contract for Tom up to 6 February 2000, and that representations have been made by the Chamber of Mines concerning the termination of his services.
>
> The last advice we received on this is that 'it is in the minister's office', and take no further action until advised.

The email seeks a direction from the acting secretary of the department. How could it be possible that the minister advised the house on 8 December 1999 that it was not her intention to intervene to change decisions by the department, but the department was clearly waiting for a direction from the minister on the matter?

Fishing: bag limits

Hon. P. R. HALL (Gippsland) — I raise a matter with the Minister for Energy and Resources on behalf of my constituent, Mr Michael Doran, who operates a company called Ourway Corporate Cruises Pty Ltd based in Welshpool. The core of the business is the conducting of fishing charter trips. For single day trips there is no difficulty with Mr Doran's clients landing the legal daily bag limit. However, one of his regular trips is a five-day charter to Flinders Island, which is outside Victorian waters. When the charter boat returns after a five-day trip a problem arises about whether the participants are legally permitted to bring back five days worth of catch or whether they are allowed to bring back an amount equivalent to the daily bag limit per client. The department is unable to give my constituent a categorical answer and the uncertainty is affecting the viability of the business.

I ask the minister to direct her attention to the matter and expedite an answer for my constituent. Moreover, I suggest to the minister that there may be a need to establish a long-term strategy or arrangement for charter boat operators. It may be that a special licence category needs to be created somewhere between a commercial and recreational licence to specifically cater for charter boat proprietors and others to overcome the problem.

Carlton: traffic congestion

Hon. G. D. ROMANES (Melbourne) — I direct a matter to the attention of the Minister for Energy and Resources in her capacity as the representative of the Minister for Transport in another place. Community groups such as the Carlton Residents Association and the Parkville Association and many individuals in my electorate have drawn attention to the increasing congestion in the Carlton and Parkville areas due to the volume of traffic from the Eastern Freeway. They are concerned that the improved access for people in the east from the proposed extension of the Eastern Freeway will attract even more traffic to the inner city area.

I understand the Minister for Transport has mentioned that a feasibility study will examine integrated transport options to address traffic problems at the western and city ends of the Eastern Freeway. I also understand the Melbourne City Council is interested in becoming involved in such a feasibility study. Community groups and members of my electorate in Carlton and Parkville are anxious that some action be taken on the matter. I therefore ask the minister when the feasibility study will begin and whether it will incorporate consideration of a light rail service along the Eastern Freeway to Doncaster.

Mount Stirling Road: safety works

Hon. G. R. CRAIGE (Central Highlands) — I raise a matter for the attention of the Minister for Energy and Resources, who represents the Minister for Environment and Conservation in another place. It concerns some works that recently took place on the Mount Stirling Road. As a result of the safety audits

carried out following the disaster at Thredbo, many safety issues were identified in alpine regions. I acknowledge that last summer prior to the ski season the Labor government allocated funding to the resorts to carry out necessary safety works.

I have no problem at all with the risk management process. Most of the resorts, with the exception of Mount Stirling, carried out their works during the summer months — an acceptable practice. The contract let by the Mount Stirling Management Board included works such as the pruning of dangerous vegetation along the roadside, the upgrade of drainage, the reinforcement of batters and rehabilitating the surface of the deteriorating road.

The issue I raise is the lack of consultation, the timing and, in particular, the disposal of debris and timber. As already indicated, the works carried out at other resorts were done during the summer months. I cannot, nor can the Mount Stirling Alpine Advisory Group, which was established by the Mount Stirling Management Board, work out why the work was carried out in the winter. No discussion took place between the board and local communities, advisory groups or the operators working in the area. Many large trees were felled during the process.

I was disgusted at the way the timber and tree stumps were displaced and disposed of. They were pushed over the edge of the road, ripping out vegetation as they fell into the beautiful ferny valleys along the road. It is an absolute mess. The timber sawlogs — about 600 cubic metres — could have been retrieved and sold, probably recovering about half the cost of the contract. I ask the minister to have a full departmental inquiry into this environmental disaster.

Rail: Ouyen crossing

Hon. B. W. BISHOP (North Western) — I direct to the Minister for Energy and Resources in her capacity as the representative in this place of the Minister for Transport the poor condition of the railway crossing on the western side of Ouyen, famous for its vanilla slice. The crossing is on the Mallee Highway, which as the major road leading to and from South Australia carries a lot of traffic. It also services Victorian towns such as Murrayville, Underbool and Walpeup, as well as a number of villages on the way.

I inspected the crossing and noted that it has broken up badly and is rapidly becoming worse. It is a risk to users of the Mallee Highway. I request that this issue be drawn to the immediate attention of the Minister for Transport so that this urgent matter can be addressed.

Braybrook: street lighting

Hon. S. M. NGUYEN (Melbourne West) — I direct to the attention of the Minister for Energy and Resources issues raised by the residents of Braybrook over recent weeks and months relating to safety in that suburb.

Honourable members interjecting.

The PRESIDENT — Order! It is not assisting Mr Nguyen when two of his colleagues are speaking at the same time as he is raising an adjournment issue. I ask honourable members to desist from interjecting.

Hon. S. M. NGUYEN — As I said, residents and groups in the suburb of Braybrook have raised issues relating to safety. The community, police and the Braybrook Issues Working Group have worked together to address some of these concerns. The residents have raised the issue of street lights that have gone out and not been replaced. Will the minister advise the house of the process for having street lights repaired and the standard turnaround time?

Housing: youth homelessness

Hon. W. I. SMITH (Silvan) — I raise for the attention of the Minister for Small Business, representing the Minister for Housing in the other place, the issue of homelessness and some of the work done by the government. It is difficult to get a handle on what is happening, but the government appears to be trying to understand the issue of homelessness.

Recently it released a report entitled *Homelessness in Victoria* by Dr Chris Chamberlain, the head of sociology at Monash University. The report was prepared for the Victorian homelessness strategy and raises issues that need to be addressed. It uses the 1996 population census to work out how many homeless people there are in Victoria and states in part:

> … that two-thirds (64 per cent) of the homeless in suburban Melbourne were staying with other households on census night. This tends to make them invisible. It is possible that some may have been homeless for short periods of time, because homeless people often prefer to stay with other households when they first lose their accommodation …
>
> It is also more common in suburban areas for people in crisis (especially families) to access caravan parks on a short-term basis.

I know this occurs in the outer east. The problem is wider than homelessness for families in crisis, and that is the issue I direct to the minister's attention. Unfortunately there is a hidden problem in my electorate, and I know it occurs in other electorates,

involving homeless schoolchildren. I know from the work I do with some of the secondary colleges in my electorate that about 15 to 20 students in 1000 aged 15 to 16 years are homeless, and I suspect the proportion is the same in secondary schools in other electorates.

When one studies the figures one can see a pattern emerging of homeless kids, who cannot stay at school for a range of reasons, dropping out of school and getting lost in the statistics. The organisations with whom I have discussed this issue, including Hanover House, all say the same thing: that a lot of children have not been counted in the census and are lost to inner city areas. I know the government has announced funding for programs in my area, including Wesley in outer eastern Silvan.

I have raised the issue in the hope that the strategy will review the situation of homeless schoolchildren, not just families in crisis, and try to offer solutions.

Minister for Environment and Conservation: correspondence

Hon. W. R. BAXTER (North Eastern) — I raise with the Minister for Energy and Resources for referral to her colleague the Minister for Environment and Conservation in another place an issue relating to open and accountable government. It is my sad duty to advise the house for a second time that the Minister for Environment and Conservation has failed to uphold the Labor government's lofty commitments to open and accountable government.

I have a copy of the draft recommendations of the Environment Conservation Council report on box ironbark forest vegetation, a report, not surprisingly, that generated a lot of interest in northern Victoria. I attended meetings in Bendigo in July at which 300 people were present and in Nathalia on 7 August where more than 200 people were present. The closing date for submissions was 8 August.

A number of my constituents, particularly those in the Broken–Boosey area, found the recommendations to be somewhat surprising and sought an extension of the closing date for submissions. On 31 July I wrote to the minister requesting that the closing date be extended by a short period. I would have thought that, bearing in mind that it was dated 31 July and that the closing date was a week later, upon receipt of the letter in the minister's office it may have had some urgency attached to it. More than a month has elapsed and I am still to receive an acknowledgment, let alone any response of substance to the letter. That is not the way for governments to operate if they want to profess that they are open and accountable. I request the minister to ask her colleague to give me a response as soon as possible.

Gas: Portarlington, Indented Head and St Leonards supply

Hon. E. C. CARBINES (Geelong) — I refer a matter to the Minister assisting the Minister for State and Regional Development representing the Minister for State and Regional Development in another place. Can the minister confirm that an application has been lodged for funding from the Regional Infrastructure Development Fund for the construction of a gas pipeline to the townships of Portarlington, Indented Head and St Leonards?

Minister for Major Projects and Tourism: correspondence

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — I refer the Minister for Industrial Relations, representing the Premier, to a letter Mr Lucas and I received from Mr Bernard Canning, a constituent from Dandenong. Mr Canning wrote:

> On 26 May this year I wrote to my local member of the Legislative Assembly, Mr John Pandazopoulos, regarding the proposed 'trials' of drug injecting rooms. Despite a reminder letter on 19 July, when I also wrote to the mayor of Dandenong, Ms Angela Long, I have not received so much as an acknowledgment, let alone an adequate response.

Mr Canning lists a number of points regarding safe injecting facilities and then goes on to state:

> Not having had a reply, it may be that the government is only now actively considering these issues.
>
> …
>
> Drug use is a difficult and complex issue. It needs more than the simplistic responses we have so far seen. It certainly needs more than abuse of those who question the wisdom and effectiveness of this government's proposals to date.
>
> Will you please take up this matter and see what response you can obtain, on my behalf, to what I believe are reasonable questions that so far remain unanswered.

It is well known in Dandenong that the honourable member for Dandenong, having become a minister, prefers to spend time in his Collins Street office rather than in his electorate office. It does not surprise me that this letter has gone unanswered. I seek the Premier's assistance to obtain a response to Mr Canning from the Minister for Major Projects and Tourism and the honourable member for Dandenong.

Bendigo: healthy eating service

Hon. R. A. BEST (North Western) — I refer the Minister for Industrial Relations, representing the Minister for Health in another place, to the establishment in the Bendigo area of a healthy eating service. Under the previous government some — —

Government members interjecting.

Hon. R. A. BEST — If you would shut up you would be able to hear. I am sorry, but the two of you behind the minister are like parrots.

The previous government provided some $30 000 in funding to review the provision of support services for people suffering from eating disorders. Currently, people suffering from eating disorders have to travel to the metropolitan area because there are limited areas of expertise and support available to care for them. This afternoon I was talking to a mental health nurse and she reminded me of the urgency of the need for funding to provide a service that is multidisciplinary and addresses the concerns and cares of those poor people.

Last year, through the Bendigo Health Care Group, an extensive study was undertaken and a multidisciplinary approach and model was developed and established to look at the provision of care and support for not only the sufferers, but also the families of people suffering from eating disorders. The Bendigo Health Care Group has made a submission to the government, and I in no way want to make this matter party political. People in country Victoria are in extreme need of the establishment of a model that can be duplicated in other rural areas to support sufferers and their families.

As I said, the program is a multidisciplinary model that looks at the provision of services by general practitioners, psychiatrists, psychologists and dietitians. It is a much-needed service and I urge the government, particularly the minister, to look positively at supporting the funding for it, as this would alleviate much of the pain and suffering and dislocation that the families have to endure in bringing the unfortunate sufferers to the metropolitan area.

Knox: school crossings

Hon. A. P. OLEXANDER (Silvan) — I seek the assistance of the Minister for Energy and Resources, who represents the Minister for Transport in the other place. Last week I received a letter from the City of Knox about the incidence of high severity casualty accidents in the municipality and the need for speed zones at school crossings, particularly on main roads. I believe this may be a significant issue for other municipalities in my electorate. The council advises me it has identified approximately seven sites that would meet the criteria for the establishment of a school speed zone. Of greatest concern are those schools that operate on main roads where an 80-kilometre-per-hour speed limit is common.

The council has advised me that a number of incidents and near misses have been reported to it by schools and parents. Incidents to date predominantly have been car accidents resulting from drivers stopping abruptly. Fortunately, to date there have been no reports of pedestrians being injured. However, there have been reports of school crossing supervisors tragically killed or injured in the general region in the period prior to the past five years.

The City of Knox believes the safety of school crossings is of the highest priority, and the growth of traffic in the region renders the introduction of reduced speed zones one of its main priorities. I wholeheartedly share the council's concerns.

The problem the council has is that each identified school crossing site will cost approximately $20 000 to upgrade, and that is $140 000 of ratepayers' funds that has not been budgeted for. That is a significant sum for the council to provide, but it would go a long way towards protecting school kids crossing busy roads in the electorate. Because most of the crossings are on main roads, with most traffic being through traffic and not local traffic, the council has proposed to the minister's department a dollar-for-dollar shared funding arrangement.

As the issue is critical to the safety of school students in my electorate I ask the minister whether he will ensure his department reviews the council's proposals as a matter of urgency and agree to the funding arrangement proposed for school zones in the interests of saving lives of young school children in the outer east of Melbourne.

Goulburn Valley HIV/AIDS resources group

Hon. E. J. POWELL (North Eastern) — I refer a matter to the Minister for Industrial Relations, representing the Minister for Health in another place. I was first contacted by the secretary–treasurer of the Goulburn Valley HIV/AIDS resources group in July because she was concerned the organisation had not received its yearly funding of $3000 from the Victorian government. It should have received the funding in February and was told that the cheque was sitting on the minister's desk.

The Goulburn Valley volunteers freely give many hours of their time to help people in the community who desperately need their support with counselling, advice, referral and information. The amount funded has been multiplied many times over because of the benefits to the wider community. Support has been given to people who are HIV affected or infected and the group is a point of referral to professionals and lay workers. Country Victorians especially can be isolated in their communities, both by fear of the disease and by the ignorance of the public.

When the organisation first contacted me in July it had $6 left in its funds, but it was not too worried because it was told the cheque would be there shortly. The group contacted me again this month because it has now received a telephone bill it cannot pay. The phone bill is for the crisis line that people call when they are desperately seeking support, help and information.

I ask the Minister for Health to advise why there is a delay in processing a cheque for this organisation and when it will receive the funding, as the support group is now itself in crisis and desperately needs help because the crisis telephone line may be disconnected.

EPA: test results

Hon. C. A. FURLETTI (Templestowe) — I refer a matter to the Minister for Energy and Resources, representing the Minister for Environment and Conservation in the other place. It is a problem that has been experienced by a constituent of mine who for about five years has been engaged in a dispute with a neighbour. The neighbouring business is a car wash that washes cars and car engines and uses spray chemicals which find their way over the dividing fence and through seepage into my constituent's property and garden.

The Banyule council has also been seeking to resolve the problem, and arranged for the Yarra region of the Environment Protection Authority (EPA) to take samples of soil and vegetation from my constituent's garden for analysis on 8 December, 1999. I was pleased the council had taken that initiative because I believed the analysis would go a long way towards putting to rest my constituent's genuine concerns. The vegetation samples were apparently returned fairly quickly, but as the soil samples have not been forthcoming my constituent raised the problem with me.

On 2 May I began writing to the EPA seeking details about the results of the soil samples and have written monthly since then. I have made telephone calls intermittently following up my written correspondence, and my office has been ringing the EPA daily since last Monday week. Not only have I not received a response to my letters, but the EPA has not even shown me the courtesy of acknowledging them. The staff at the EPA whose names I am in possession of have failed to return any of the five messages my office staff have left in the past 10 days.

I ask the minister to pass on to her colleague in the other place my request to her to direct the regional office of the Environment Protection Authority, which I understand comes within the minister's portfolio, to produce the results of the analysis and, hopefully, resolve this somewhat unfortunate neighbourhood dispute.

Housing: St Kilda hotel closure

Hon. ANDREA COOTE (Monash) — I ask the Minister for Small Business to refer the Minister for Housing in another place to the closure of the Hollywood Private Hotel in Beaconsfield Parade, St Kilda. Last week I met with members of the Port Phillip and Stonnington Information Network, who meet monthly to discuss issues and to share information relating to public housing in the cities of Port Phillip and Stonnington. It is an excellent network, comprising public housing groups such as Hanover Housing Services, Argyle Street Housing Service, the Office of Housing, the South Port Community Housing Group, the Prahran–Malvern Community Housing group and the St Kilda residents group.

For some time there has been a tendency towards gentrification in the City of Port Phillip. The gentrification of the City of Port Phillip, and St Kilda in particular, is causing a lot of pressure on public housing. I commend the former Minister for Housing, Ann Henderson, on the excellent integrated private and public housing development behind Fitzroy Street called the Regal development.

The gentrification of St Kilda is causing concern for housing lobby groups that are trying to place single people in particular into public housing in the area. The Hollywood Private Hotel has recently been bought by a developer, and 65 single men need to find new homes in the area and close to the infrastructure with which they are familiar. The Port Phillip and Stonnington Information Network is already stretched to the limit with its daily activities, without the additional influx of homeless people.

I ask the Minister for Housing what funds and tangible assistance she has given to ensure that the residents of

the Hollywood Private Hotel are relocated as soon as possible to permanent accommodation in the same area.

Dalyston–Glen Forbes Road: upgrade

Hon. R. H. BOWDEN (South Eastern) — I raise a matter with the Minister for Energy and Resources, in her capacity as the representative in this house of the Minister assisting the Minister for Transport regarding Roads. During the past few days I have received from constituents 31 signed letters, each with a different address, about the dangerous condition of the Dalyston–Glen Forbes Road in the electorate of Gippsland West.

According to the 31 letters, a 5.6 kilometre section of the 20 kilometre Dalyston–Glen Forbes Road is unsealed, winding and very dangerous. I am assured by my constituents that there are on average more than 100 vehicle movements a day on the road, including milk tankers, school buses, hay trucks and heavy vehicles. A death on that section of the road has also been recorded. My constituents are extremely concerned that on the occasions when the local council provides upgrading and repairs to the road, within two weeks on average the road again becomes dangerous.

I ask that the matter be thoroughly investigated, as it appears the council has written to several of my constituents saying that the council is not able to provide the due diligence of care to ensure the required performance standards of that section of road. I ask the minister to urgently check out the exact condition and capacity of the road and ensure that it meets an acceptable performance standard.

Local government: national competition policy

Hon. R. M. HALLAM (Western) — I refer the Minister for Energy and Resources, as the representative in this house of the Minister for Local Government, to the national competition policy dividends either received or anticipated by Victoria that are directly attributable to the Kennett government's reform of local government.

I was pleased to note that Minister Cameron has confirmed that the government expects a dividend of $9.8 million this year and a total of $45 million over the five years to the year 2001–02. However, I am not impressed to learn that Victoria is currently the only state that shares the national competition policy payments with local government. I ask Minister Broad to seek from her colleague the Minister for Local Government a commitment on behalf of the Bracks government that both the total received and anticipated dividends from the local government reform will be faithfully passed on to councils over the period it is received.

Patterson–Tucker road intersection: traffic signals

Hon. J. W. G. ROSS (Higinbotham) — I refer the Minister for Energy and Resources, as the representative in this house of the Minister for Transport, to a petition submitted to the Glen Eira City Council by some 800 residents in my electorate concerning the dangers to pedestrians at the intersection of Patterson and Tucker roads in East Bentleigh.

The council has investigated traffic flows and past incidents at that intersection and submitted an application to Vicroads to provide automatic and pedestrian-activated intersection traffic signals. The response to the council from Vicroads has been disappointing and certainly not in accordance with the strength of feeling of residents in the local area. I ask the minister to investigate the past incidents at that intersection which are of great concern to my constituents and to consider making funds available to undertake the work sought by the Glen Eira City Council before a tragedy occurs.

Taxis: driver standards

Hon. ANDREW BRIDESON (Waverley) — I refer the Minister for Energy and Resources, as the representative in this house of the Minister for Transport, to an issue concerning incompetent taxidrivers. All honourable members know that taxis are an important and integral part of Melbourne's public transport system. As such, we all have expectations that those drivers will be well trained, qualified and competent in what they do. The former Premier, who did a lot for the industry, tagged taxidrivers as being ambassadors for the state and said that they could promote tourism and associated industries and activities.

Members of the public have a fair expectation that when they hail a taxi, the driver will have some idea of where they want to go. I was therefore somewhat embarrassed last Wednesday when the Commonwealth Parliamentary Association executive had a very enjoyable dinner with guests from the British Parliament, and I inquired during conversation why they had arrived late for the dinner.

I asked whether their lateness was caused by Melbourne's rainfall. However, they were late for another reason: they hailed a taxi but the driver did not

know how to get to Parliament House from the Hotel Stamford, which is less than a kilometre away.

That incident reminded me that in the past 12 months I hailed a taxi to go from Parliament House to the grand prix at Albert Park, but had to instruct the driver how to get there. On another occasion I hired a taxi to travel to Flemington racecourse for the Melbourne Cup, but, again, the driver did not know how to get there.

Will the Minister for Transport investigate how incompetent taxidrivers are employed and whether they have ongoing and in-service education? Victoria's taxidrivers should be trained to the standards of London cabbies.

Olympic Games: training

Hon. B. C. BOARDMAN (Chelsea) — The matter I direct to the attention of the Minister for Sport and Recreation concerns his bizarre promotion during today's question time of international sporting teams using Melbourne's facilities in the lead-up to the Olympic Games. It is wonderful that Victoria should have such an incredible number of sporting teams and international athletes availing themselves of Victoria's fine facilities in the lead-up to the Olympics, but it is a slur on the minister that he should go on about the promotion of international athletes to the detriment of Australian athletes.

If the minister were capable and knowledgeable about his portfolio responsibilities he would be aware that the Australian Telstra swimming team has been using the Melbourne Sports and Aquatic Centre in the lead-up to the games. Training there on Thursdays are such fine Australians as Matt Dunn, Michael Klim and Rebecca Brown. The public is turning up in droves to support the athletes, yet the minister is nowhere to be seen. He is not interested. He would rather succumb to the populist publicity associated with supporting big-ticket athletes in the hope that he may get some publicity.

I ask the minister to admit that he has shirked his responsibilities as Victoria's sports minister by neglecting Victorian athletes at the expense of gaining potential publicity through acting as a quasi advocate for overseas athletes.

School Focus Youth Service

Hon. M. T. LUCKINS (Waverley) — The matter I direct to the attention of the Minister for Youth Affairs may seem pedestrian after the last two matters. The School Focus Youth Service was funded by the previous government to offer an integrated program to Victorian schools and to develop links to existing programs for young people. The City of Monash was one of the successful tenderers for the program and has received $120 000 a year. The service worked with 63 schools in the City of Monash, including all government, Catholic and independent schools.

The director of youth services at the City of Monash, Malcolm Ford, said the School Focus Youth Service has been successful locally, with positive outcomes for students referred to the services. It has provided schools with unprecedented contact on their initiatives. The program was initially funded for three years and the contract is set to expire in September 2001.

Given that that is a year away, the City of Monash and other providers are keen to know the government's plans for the continuation of the School Focus Youth Service. They want to know whether ongoing funds will be provided so that the momentum gained to date will not be lost.

Olympic Games: training

Hon. P. A. KATSAMBANIS (Monash) — The matter I direct to the attention of the Minister for Sport and Recreation follows the issue raised by Mr Boardman, who said that during question time today the minister was glowing and enthusiastic in his promotion of overseas athletes training in Melbourne in the lead-up to the Olympic Games.

I point out to the minister that probably Australia's most internationally renowned athletes — that is, Australia's Olympic soccer team, commonly known as the Olyroos — are based in Melbourne not only in the lead-up to the Olympics but tonight they are to play an international soccer match at Olympic Park. On Thursday night they will be playing another international soccer match at the Bob Jane stadium in my electorate. For the duration of the Olympics the team will be based in Melbourne at the Hilton Hotel.

Like Mr Boardman I am also concerned at the minister's apparent lack of interest in Australian sporting teams in his haste to embrace international athletes. I call on the minister to correct the omission by putting on the record his support along with that of Liberal Party members and, no doubt, National Party members for the Australian Olympic athletes, including the Olyroos. We wish them well in their quest to win gold for Australia.

Waverley Park

Hon. N. B. LUCAS (Eumemmerring) — I direct a matter to the attention of the Minister for Sport and Recreation. It revolves around the *Herald Sun* headline

of 27 August 'Waverley pledge an election hoax'. I have followed with great interest the heritage listing of Waverley Park. I have noticed headlines in a number of newspapers about the heritage status of Waverley Park. One headline states 'Heritage status for Waverley a joke'. A headline in the 1 September edition of the *Age* states 'Heritage call threatens clubs: AFL'. A headline of 16 August states 'Heritage bid a threat to clubs: AFL' and on 1 September a further headline states 'Heritage hurts AFL'.

I have done some research and got to the bottom of the heritage listing. The *Dandenong Examiner* states that the Minister for Gaming in the other place, John Pandazopoulos, last year suggested that if somebody nominated Waverley Park for heritage listing to preserve the stadium, the schemes of the Australian Football League (AFL) would fall asunder.

I have found out why the heritage listing has succeeded. The Minister for Gaming, the honourable member for Dandenong in the other place, suggested that the heritage listing should proceed. It seems the listing is a result of the minister's suggestion to the City of Greater Dandenong which, as the Honourable Gordon Rich-Phillips said the other night, spent more than $160 000 prosecuting the case for a heritage listing; yet, Waverley Park is in the City of Monash.

On 1 September it was reported that Wayne Jackson, the chief executive of the AFL, said that the heritage listing threatened the future of cash-strapped local clubs and the development of the game. It appears that the football clubs of St Kilda, Hawthorn, North Melbourne and Footscray could go under as a result of the minister's suggestion to the City of Greater Dandenong.

Given that it was the suggestion of the minister that the City of Greater Dandenong seek heritage listing for Waverley Park and having regard to the statement of the chief executive of the AFL of 1 September that the listing threatened the future of cash-strapped clubs in the development of the game, will the minister advise the house what financial guarantees the government will provide for the AFL clubs of St Kilda, Hawthorn, North Melbourne and Footscray should they have financial difficulties? In other words, what action will the government take — —

The PRESIDENT — Order! The honourable member clearly went over his time. Next time he will be on a 2-minute limit!

Industrial relations: IT industry

Hon. D. McL. DAVIS (East Yarra) — My question to the Minister for Industrial Relations concerns the telecommunications and information technology sector of the Victorian economy. The *Australian Financial Review* of 18 August carried an article at page 19 that dealt with some industrial relations aspects of the industry at the moment. It is an important growth industry that is growing much faster than the national economy and the Victorian economy overall. The Community and Public Sector Union (CPSU) has served a significant log of claims on telecommunications groups and Internet service providers and is trying to establish an industry-wide award. The article states that the log of claims covers:

> … virtually the entire sector outside market giants Telstra Corp and Cable & Wireless Optus, which are regulated by company-specific federal industrial awards.

The article goes on to list other carriers and service providers that are affected by the log of claims — AAPT, Davnet, One.Tel, Vodafone, Hutchison Telecommunications, Ozemail, Eisa, Macquarie Corporate Telecommunications, Primus and RSL Communications. There is considerable concern that this industry, which is growing very fast, will be significantly affected by this log of claims. The union seeks to impose a regulated workplace on a number of carriers in a way that will impact on the growth of the sector and the employment opportunities that it offers Victoria.

I contrast that with the fact that the Kennett government had a very strong policy in this area to grow the sector and to place Victoria in a leadership position in the world of multimedia and associated industries. It had the first Minister for Multimedia in Alan Stockdale. In that context there is a belief that this claim can seriously damage the industry. The log of claims is believed to affect more than 100 000 workers in the sector across Australia.

I ask the Minister for Industrial Relations to assure the house that she does not support the industry-wide award push in the information technology industry. Can the minister assure the house that she does not support any heavy-handed tactics by the CPSU that may disadvantage the IT sector and employment by telecommunications and Internet service providers in Victoria?

Workcover: premiums

Hon. K. M. SMITH (South Eastern) — I have a question to the Minister assisting the Minister for Workcover. During the last sittings of Parliament the minister came into this house as the lead speaker on a bill seeking the opposition's support to increase Workcover premiums to cover the provision of

common-law rights. That is the way it was sold. She told us that the premiums would rise approximately 15 per cent, or 15 per cent on average. There was no mention of the removal of caps, of adjustments of industry or anything like that. I think the Minister assisting the Minister for Workcover misled the house with what she said during that debate. *Hansard* will record that the minister misled the house.

My office has been inundated with complaints from people about the premiums they have been asked to pay. I will mention the name of one company on the basis that if it is in any way victimised by the Thought Police out at Workcover I will be in here naming Workcover officers and the company for what Workcover has done to it.

In 1998–99 the premium the company was asked to pay was $34 577.10. For the year 1999–2000 it was up to $39 762.08, and for this current year, 2000–01, the premium has just increased to $71 959.01. That is far in excess of the 15 per cent average that the minister misled members into accepting.

Hon. R. F. Smith interjected.

Hon. K. M. SMITH — Why don't you shut up! I want to know why the Minister assisting the Minister for Workcover allowed this to happen, why she misled the house and what she is going to do for this small business, which she and her government may be sending broke.

Liquor: licences

Hon. BILL FORWOOD (Templestowe) — I raise an issue with the Minister for Small Business concerning the review of the 8 per cent limit on liquor licence holdings. At the outset let me point out that on page 5 the report released yesterday by the minister notes that the National Competition Council stated in its submission that it was satisfied that the current review was 'sufficiently independent'. The issue is that the Office of Regulation Reform undertook an independent review. We know, because it is on the record, that the initial review document was finished in June as was required under the terms of reference, which were extended from May. I draw a contrast between what the original report said and what ended up in the final report. For example, the original report states:

> Given the above conclusions, the review considers that it would be inappropriate to immediately abolish the 8 per cent limit.

The final report states:

> Given the above conclusions, it would be in the public interest to retain the 8 per cent limit …

Of course, that led to a change in the recommendation. The original recommendation said:

> While it would be inappropriate to immediately abolish the 8 per cent limit …

In the final report issued yesterday the recommendation had been changed to:

> The 8 per cent rule should not be removed …

Is it not true that the review released yesterday is not independent, as required by the National Competition Council, and that in fact the alterations made to it to hide its true recommendations were made on the minister's instructions?

Industrial relations: task force

Hon. M. A. BIRRELL (East Yarra) — I raise a matter with the Minister for Industrial Relations relating to the work of the industrial relations task force which she spoke about so proudly in question time. The industrial relations task force has already cost the taxpayers around $2 million, even though it has been established for only about three months. I am keen to know whether the government is planning to continue with the task force after this date. If not, how will the government honour its election promise that it will have some form of multipartisan body to discuss industrial relations issues and provide some kind of forum for employers and unions? Will it be the industrial relations task force? If not, which body will the government create, or will it not create such a body?

Responses

Hon. M. M. GOULD (Minister for Industrial Relations) — A number of matters were raised with me. The Honourable Gordon Rich-Phillips raised a matter for the Premier. I will pass that on and the Premier will respond in the usual manner.

The Honourable Ron Best raised a matter for referral to the Minister for Health with respect to multidisciplinary services in the Bendigo area and an application for funding, I think it was for $30 000. I will raise that with the minister.

Hon. R. A. Best — The study cost $30 000, which was provided by the previous government.

Hon. M. M. GOULD — The matter was in respect to funding for multidisciplinary services in the Bendigo area, specifically relating to eating disorders. I will raise

that with the Minister for Health and ask him to respond in the normal manner.

The Honourable Jeanette Powell raised a matter for the Minister for Health with respect to funding of $3000 for HIV/AIDS treatment programs. I will raise that with the minister and ask him to respond in the usual manner.

The Honourable David Davis raised a log of claims that has been served by the Community and Public Sector Union on telecommunications and information technology industries. If the honourable member had any understanding of what industrial relations was about he would realise the under the Workplace Relations Act a union serves a log of claims on companies. It has to be an ambit claim so they can have what is called a paper dispute — —

Hon. D. McL. Davis — It doesn't have to be an ambit claim.

Hon. M. M. GOULD — If they want a dispute found to resolve an issue.

Honourable members interjecting.

Hon. M. M. GOULD — The process for creating a federal award under the Workplace Relations Act is that the union serves a log of claims on companies. If any companies wish to take issue with that I would be more than happy for them to get in touch with my department, which would be prepared to advise and assist them in any way to sort out any issues they may have with the matters before the commission.

Hon. D. McL. Davis — On a point of order, Mr President, I asked the minister to assure the house that she did not support the industry-wide award and the push by the Community and Public Sector Union into the information technology industry. That is not what she has done. She said she has no understanding of the issue. However, I seek that assurance from her.

The PRESIDENT — Order! There is no point of order. I read the guidelines to the house the other night. They specifically state that the house accepts the answer as given. I can read the words again if the honourable member wishes.

Hon. M. M. GOULD — The Honourable Ken Smith referred to Workcover premiums, a subject that was debated extensively last week. He also passed on the name of a particular company and details of an initial premium notice. I will not name the company. As indicated, if any companies wish to discuss their premiums with the authority an appointment will be made and I will take it up with the authority and ask it to organise a meeting to discuss their concerns.

The Leader of the Opposition referred to the industrial relations task force. The question covered two issues and I will address both. One concerned the $2 million. As I stated to the house, the government allocated a sum not exceeding $2 million. The task force has not expended the full amount of that money.

An Opposition Member — How much?

Hon. M. M. GOULD — I cannot recall. I advised the Public Accounts and Estimates Committee how much money had been spent to date. I think I can say it is less than $250 000, but I will stand corrected. I am happy to advise the house tomorrow exactly how much has been spent on the continuation of the task force. It was resolved in the formal report given to me today.

An honourable member interjected.

Hon. M. M. GOULD — As I said, the government will be considering the recommendations of the task force. After an economic impact statement has been prepared it will respond in the not-too-distant future.

Hon. C. C. BROAD (Minister for Energy and Resources) — The first question I received was from the Honourable Philip Davis, who referred to a matter concerning Mr Tom Dickson, which he raised with me in this place on 8 December, and to my response at that time. The honourable member sought to revive the matter by referring to documents he received under freedom of information. Unfortunately for him, some of the emails that some officers appear to have exchanged between themselves within the department are less than well informed.

I can assure the honourable member that the answer I gave on 8 December is accurate, and the extent of my so-called intervention in the matter consisted of representations made to me by the Victorian Chamber of Mines and others about a matter that predated my taking on the responsibilities of the portfolio. I did the entirely appropriate thing, which was to raise the matter with the then secretary of the department, Mr Taylor, who is the person who appoints and determines the contracts, not the minister. The then secretary of the department informed me of the actions he had taken in relation to that person's employment, and I accepted his explanation. That was the extent of my inquiries on the matter.

An Honourable Member — A cover-up!

Hon. C. C. BROAD — You wish!

The second matter was raised by the Honourable Peter Hall in response to a constituent, Mr Michael Doran. It concerned bag limits for people participating in fishing charter trips. Mr Doran sought clarification of the limits that apply to people who participate in charters. I undertake to discuss the matter with the department and to seek a resolution.

The Honourable Glenyys Romanes raised a matter with the Minister for Transport concerning traffic congestion at the western end of the Eastern Freeway. She requested that the minister advise her of a feasibility study on the matter. I will refer her question to the minister.

An Honourable Member — Don't forget the light rail out to Doncaster!

Hon. C. C. BROAD — That is correct.

The Honourable Geoff Craige requested the Minister for Environment and Conservation to investigate the safety works at Mount Stirling and issues such as consultation, timing and disposal of timber following those works. I will refer the matter to the minister for her to pursue.

The Honourable Barry Bishop raised a matter for the Minister for Transport concerning a railway crossing at Ouyen. He requested that the minister urgently address safety matters to do with that crossing. I will refer that to the minister.

The Honourable Sang Nguyen raised with me a matter concerning safe public lighting in the Braybrook area. I can advise the honourable member that most public lighting services are currently owned, maintained and operated by the franchised electricity distribution businesses and local councils pay the relevant distribution company for the provision of those services in each council area. In some instances Vicroads pays the distribution businesses for lighting services associated with major roads. Public lighting services in Braybrook — west of Footscray — are provided by AGL in the east and Powercor in the west.

Those electricity distribution businesses operate in accordance with audited asset maintenance programs, and the electricity supply and sale code of the Office of the Regulator-General provides that if a customer reports a broken street light next to the customer's house or business and the distribution business does not fix the light within two working days the business must credit the customer's account with $10. That is one of five guaranteed service levels introduced by the SEC in 1993 and continued under the current regulatory framework. Legislation the government enacted in the autumn sittings gave the Office of the Regulator-General continuing powers to regulate public lighting services from 2001.

The Honourable Bill Baxter referred to the Environment Conservation Council's draft box-ironbark report. All honourable members know the high regard Mr Baxter has for the ECC! He asked the Minister for Environment and Conservation to have the Environment Conservation Council, an independent body, provide an extension of time for submissions, and requested that the minister respond to his request. I shall pass on the matter to the minister.

The Honourable Elaine Carbines asked the Minister for State and Regional Development to advise her whether a submission has been received by the Regional Infrastructure Development Fund concerning the extension of gas to the towns of Portarlington, Indented Head and Clifton Springs. I shall pass on her request to the Minister for State and Regional Development.

The Honourable Andrew Olexander raised for the attention of the Minister for Transport correspondence from the City of Knox about safety at school crossings. He asked the minister to review the council's proposal for joint funding of works required to ensure safety at school crossings. I shall refer the matter to the Minister for Transport.

The Honourable Carlo Furletti raised for the Minister for Environment and Conservation a constituent's problem with a carwash business next door and trouble obtaining test results from the Environment Protection Authority. He requested that the minister require the EPA to provide those test results. I shall refer the matter to the Minister for Environment and Conservation.

The Honourable Ron Bowden on behalf of a constituent raised for the Minister for Transport the state of Dalyston–Glen Forbes Road in South Gippsland and asked that the minister urgently investigate works required to ensure that the road meets an acceptable standard. I shall refer the matter to the Minister for Transport.

The Honourable Roger Hallam raised for the attention of the Minister for Local Government a matter concerning national competition dividend payments and sought an assurance from the minister that the total dividend from those payments will be passed on to local councils. I shall refer the matter to the Minister for Local Government.

The Honourable John Ross also referred a matter concerning an intersection to the Minister for Transport. It was raised by the Glen Eira City Council. Dr Ross

asked that the minister investigate incidents at that intersection and act to prevent a tragedy. I shall refer the matter to the Minister for Transport.

The Honourable Andrew Brideson raised a matter for the attention of the Minister for Transport concerning competent taxidrivers, a matter to which many members of this house can relate. He asked the minister to investigate the training of Melbourne taxidrivers to the standard of London taxidrivers. I shall refer his request to the Minister for Transport.

I wish to correct an answer I gave earlier to the Honourable Elaine Carbines. I referred to Portarlington, Indented Head and Clifton Springs. I should have referred to St Leonards rather than Clifton Springs.

Hon. M. R. THOMSON (Minister for Small Business) — The Honourable Wendy Smith raised the matter of the homelessness strategy that is being prepared and asked for it to deal with the question of homeless schoolchildren in suburban areas rather than being a strategy only for homeless families. I shall pass that on to the Minister for Housing for a reply.

The Honourable Andrea Coote raised for the attention of the Minister for Housing the closure of the Hollywood Private Hotel and her meeting with members of the Port Phillip and Stonnington Information Network. She said that the hotel had been purchased by a developer and referred to the 65 or so single men who resided there. She asked what funds and tangible assistance could be provided to enable the men to stay in the area. I shall pass on the matter to the Minister for Housing.

The Honourable Bill Forwood raised the matter of the 8 per cent limit for packaged liquor licence holders. I know he is disappointed in the final report, but we are pleased with it. We look forward to the consultative project. Next time he should wait for the final report before he makes an announcement.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — The Honourable Cameron Boardman asked about the Australian Olympic teams training in Victoria. Although today during question time I recognised exotic sports from exotic countries, I also know that the Australian teams recognise that Melbourne is the sporting capital of the nation, and it is clear that some of the sportspeople from around the world appreciate that Victoria is the place to be.

I hope the reason the honourable member gave the Australian Telstra Dolphins a plug is that he wholeheartedly supports the Australian swimming team, not because he is engaging in any corporate hospitality related to Telstra. It is great to see so many teams involved in pre-Olympic training in Victoria. I reinforce the great work that has been done by Sport and Recreation Victoria for many years to attract these teams to Melbourne.

The Honourable Maree Luckins asked about the School Focused Youth Service, which targets young people between the ages of 10 and 18 years who are displaying behaviours that require intervention and who need support. The program is under the jurisdiction of the Minister for Community Services in the other place. I have been informed that the program includes an ongoing evaluation which is currently being conducted and will conclude in early 2001, when decisions will be made about how the program will proceed beyond October 2001.

The Honourable Peter Katsambanis also raised a matter — I was pleased he was sitting next to the Honourable Cameron Boardman when watching the 6 o'clock news tonight! — about the teams that will be training in Melbourne prior to the Olympic Games. All honourable members will be looking forward to the opening soccer game between the Olyroos and Italy, which is to be played three days before the Olympic Games begin in Sydney. I wish those teams all the best in their pursuit of excellence in representing their countries.

The Honourable Neil Lucas asked about Waverley Park. The Australian Football League, like any other individual or organisation in this state, must engage in a planning process, and that has been the case in this instance. Today I spoke with the AFL to discuss the ongoing viability of the competition and clubs, and the government will continue to advocate for games to be played at Waverley. The government will also continue to discuss a range of issues with regard to the viability of the competition.

I advise all honourable members that one of the attendants of the house, Russel Bowman, is celebrating his birthday today. Honourable members might like to pass on their best wishes as they leave the chamber tonight.

Motion agreed to.

House adjourned 10.10 p.m.

Wednesday, 6 September 2000

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

INFORMATION PRIVACY BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. C. C. BROAD (Minister for Energy and Resources).

PLANNING AND ENVIRONMENT (RESTRICTIVE COVENANTS) BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. J. M. MADDEN (Minister assisting the Minister for Planning).

ECONOMIC DEVELOPMENT COMMITTEE

Membership

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

That the Hon. W. I. Smith be discharged from attendance on the Economic Development Committee and that the Hon. Andrea Coote be appointed in her stead.

Motion agreed to.

LAW REFORM COMMITTEE

Membership

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

That the Hon. D. McL. Davis be discharged from attendance on the Law Reform Committee.

Motion agreed to.

PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

Membership

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

That the Hon. Bill Forwood be discharged from attendance on the Public Accounts and Estimates Committee and that the Hon. D. McL. Davis be appointed in his stead.

Hon. BILL FORWOOD (Templestowe) — Today marks the end of my time with the Public Accounts and Estimates Committee, which I am proud to have served. I am a great supporter of the parliamentary committee system and I believe their work plays an important part in the way Parliament and society operates. As chairman, and recently as deputy chairman, I was privileged to work on a committee that was committed to trying to achieve unanimous reports, and I believe the committee did that very well. Much of the work of the committee was greatly assisted by the attitude of the former Minister for Finance, the Honourable Roger Hallam. I am proud of the work done and I am sure that the work undertaken in the past four or five years will stand the test of time, particularly the work on annual reporting, performance measurement and commercial in confidence.

I thank Michele Cornwell, who was and still is the executive officer of the Public Accounts and Estimates Committee. Her contribution to the parliamentary process is second to none, and I place on record her contribution to the work done during my time as chairman.

Motion agreed to.

WORKCOVER: PREMIUMS

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

That pursuant to the Parliamentary Committee Act 1968, the Economic Development Committee be required to inquire into, consider and report on Workcover premiums for 2000–01, including:

(a) the reasons for the level of those premiums;

(b) the manner in which those premiums were determined, both in aggregate and for individual industry classifications and employers;

(c) the impact which those premiums have had and can be expected to have on economic activity and employment in aggregate and in metropolitan, regional and rural Victoria;

(d) the impact which those premiums have had and can be expected to have on the state budget and on the provision of services by government departments and agencies, by local government and by non-profit and community organisations;

(e) whether the government can or should take action to reduce or compensate for any such adverse impacts; and

(f) whether changes should be made to the manner in which Workcover premiums are determined in future;

and to provide an interim report to Parliament by 30 November 2000 and a final report to Parliament by 31 March 2001.

The motion seeks to refer to the all-party Economic Development Committee of the Parliament a brief inquiry into the enormous public controversy that currently surrounds the increase in Workcover premiums.

Rarely does the business community get diverted from the task of running businesses and making ends meet, but it does when it is confronted with an unexpected and unjustified cost that impacts on the viability of many businesses. That is what is happening today as a result of the increase in the cost of Workcover premiums for ordinary businessmen and businesswomen throughout the state.

The Liberal Party is extremely concerned about the government's mismanagement of the Workcover system and the consequent impact this is having upon businesses, both large and small, in metropolitan and rural areas.

There has been an enormous degree of public discussion and disquiet about the ham-fisted way this issue has been handled by the Labor government. There is a legitimate call for the government to review its actions. The Liberal Party believes the best way of achieving this is to establish an inquiry by an all-party parliamentary committee under the Parliamentary Committees Act. The most appropriate body to conduct the inquiry is the Economic Development Committee. I have moved this motion so that the committee can get down to work.

The Economic Development Committee will be asked to inquire into the reasons for the level of Workcover premiums for 2000–01; the manner in which those premiums were determined; the impact those premiums have in a macro and individual economic sense in metropolitan, regional and rural Victoria; the impact the premiums will have on the state budget and related matters; and whether the government can take action to ameliorate the negative impact its decision has had.

There could be no more significant business issue today that could be inquired into by a parliamentary committee. The beauty of the parliamentary committee system is that it offers individuals a chance to give evidence, to state their case, to be heard and to get a response from Parliament. The Economic Development Committee is well suited to this task and has the capacity to undertake the work. Most significantly, if there is no inquiry by Parliament there would be an inadequate opportunity for large or small businesses to make their views known and to demand changes. If nothing else, many businesses want to explain the harm the increased premiums have caused to their viability, how they have impacted upon their capacity to employ people and in some unfortunate cases how they have impacted upon their ability to continue in business, which is why the opposition wishes the Economic Development Committee to carry out the inquiry.

The Parliamentary Committees Act allows either house of Parliament to refer a matter to a parliamentary committee, and if either house of Parliament does so those references have priority over the references that are either given to the committee by the executive through the Governor in Council or are self-generated by the committee. That is a longstanding rule that has had bipartisan support.

The rule was reinforced only recently when the new committees were created. The Economic Development Committee became the first upper house committee appointed under the Parliamentary Committees Act, of which we are proud, and we now seek to utilise it. The Liberal Party wants the reference to go to the committee, and it hopes the government will support its going to the committee. It understands there can be no fair case against the reference being forwarded to the committee, but in case it is suggested that the committee does not have the time or resources to deal with this matter I will briefly outline the facts.

The committee, as is the longstanding tradition, can determine its own priorities under the Parliamentary Committees Act. It has to give priority to references from a house of Parliament and then determine its own priorities with the budget given to it. There is no doubt the committee has the capacity to do that. It has the capacity to alter inquiries to achieve whatever outcomes are expected of it.

I make it clear that if the committee finds it difficult after embarking on the inquiry to cope with the demands on it within the established time frames the Liberal Party and I am sure the National Party, and I hope the Labor Party in this place, will agree to alter some of the terms of reference already given to the

committee to accommodate the fact that it has a significant, although not overpowering, workload.

Hon. T. C. Theophanous — How do you know?

Hon. M. A. BIRRELL — Because I read the public reports, you dill!

Hon. T. C. Theophanous — Are you on the committee?

Hon. M. A. BIRRELL — You may be aware, although facts, truth and information are rarely part of your repertoire, that committees issue reports on their work. If you read the reports you know what they are doing. That is the answer to your question of how I know! The fact that I know is an indication that the committee can do this work and has the full capacity to do the work. I look forward to the Labor Party agreeing to the motion, but if today's predictable and infantile interjections by Mr Theophanous are an indication that the Labor government will argue that committees cannot do any more work and, in particular, committees can do extra work only if approved by the executive, the Labor government will demonstrate its true colours and show that it supports and resources parliamentary committees only if it agrees with the references that go to them.

As I said earlier, if a committee says to the house at some stage in the future that its workload has led it to the conclusion that it wishes to alter the time frame set out in the terms of reference, I would be sympathetic to that request. Indeed, as evidence of that, notice of motion 2 standing in my name is exactly on that point. It refers to the Scrutiny of Acts and Regulations Committee, an all-party parliamentary committee that has a Labor Party majority, which has approached me seeking to alter the terms of reference given to it. It believes it should be able to complete its workload by 30 November 2001 rather than 30 June 2001.

It is reasonable for that committee to be able to alter its workload, and certainly the Liberal Party, and I trust the National Party, will support its being able to change the time frames in response to the work it has in front of it. That is proof positive that the opposition is responsive to demands placed on a committee, but it is also proof positive that extra work can be given to a committee and accommodated professionally. If the Economic Development Committee had any concerns after it got the reference under way it could voice its concerns to the house.

Why does the house need this inquiry? The inquiry is needed because Workcover premiums have soared under the Labor government. The increases were unexpected and unexplained, and the business community has found them unsatisfactory.

There have been some remarkable stories about how the increases have impacted on individuals. I shall quote only two of them because I believe the debate so ably led by Mr Katsambanis last week illustrated our concerns on Workcover. We do not need to go over that debate again. No-one will stand up in this chamber and say there is no debate about Workcover premium increases. It would be inexplicable for someone to argue against this reference on the basis that it is not an issue.

I cite two cases: one from the private sector and one from the public sector. The increases in Workcover charges impact not only on private businesses but also on public sector employers, both of which have to find the money. The Australian Industry Group, in its latest publication entitled *Industry* for July–August 2000, editorialised about the changes. Under the heading 'Huge Workcover increases anger members' it states:

> Many Australian Industry Group members in Victoria have been shocked by huge increases in their Workcover premiums for 2000–01.
>
> The rises are far greater than they were led to expect in April when the government foreshadowed increases to underwrite the costs of restoring common law to the system.
>
> By way of example, a typical medium-sized AI Group member reported an increase of $500 000 — the equivalent of several jobs — to $1.2 million in its annual premium. Another medium-sized member reported that its premium has increased from $100 000 to $242 000.

Those increased costs came out of the blue for those businesses. I can understand the concern of the Australian Industry Group, which represents virtually every medium-sized business in this state, and in particular its important coverage of manufacturing businesses.

However, we are hearing a parallel series of complaints from the public sector, and perhaps those have been less well aired because many people in the public sector fear victimisation from the Labor government if they air their complaints. We know that the public sector has to find the money to meet the increased costs of the Workcover bill. An example is the Country Fire Authority (CFA), which has suddenly been hit with an increased Workcover bill but has no corresponding increase in its budget allocation to pay for it. It is axiomatic that in the absence of a budget increase you have to cut somewhere else.

It has been reported that the CFA's budgeted Workcover bill will rise from $1.1 million in the

year 2000 to an expected $1.64 million in the next business year. If that occurs, the CFA will have to find an additional $540 000 to meet an unexpected workers compensation charge imposed by the Labor government.

The government might say in response to those two symbolic examples, 'Well, they can come in and talk to us. We can have a round-table meeting and we might be able to alter it'. However, the bottom line is that the government has brought in charges that affect not just one member of the Australian Industry Group and one public sector organisation; they affect tens of thousands of employers, be they from the government sector or the commercial sector.

According to the Labor government's spokesman, bills that were meant to go up by about 15 per cent to 17 per cent in fact have gone up 30, 40 or 100 per cent or even more. That is why there is a need for that increase to be explained before the public hearings of an all-party parliamentary committee. It could be done against the backdrop that employers had grown to expect lower Workcover premiums and not higher ones. Not only are we hearing an outcry from business because the premiums have gone up, we are hearing an outcry from businesses because they expected the premiums to keep going down.

It is no good for the current Labor government to say its premiums are now lower than those of most other states. Under the coalition government they were lower than those of every other state. It is no good for the Labor government to say that the premiums have increased because it wanted to bring in common-law rights, because the charges have been increased by more than the percentage that was explained as being necessary for the introduction of common-law rights. We know that those charge increases are far higher than Labor said they would be.

So far the increases have been unexplained, and they are not the result of the introduction of the GST. At the very least those charges can be claimed back as part of the GST arrangement, although the Australian Competition and Consumer Commission directly rebuked the Labor government for the misleading way it communicated that fact to Workcover payees. As a result of the ACCC's intervention the government had to back away from its misleading statements. It had to reprint the information it had given to people who pay Workcover premiums and was caught out again for misleading. No, the complaint is about the fact that as a consequence of all the Labor government's changes, premiums have gone through the roof for tens of thousands of employers. The complaint, therefore, is that those employers feel that their economic circumstances have been so impaired that they may not put on the discretionary extra employee they might have taken on, or they might not keep the discretionary employee on their payroll now because the position is tenuous because of the increased costs to the business.

I refer to the example of the typical Australian Industry Group member. If your Workcover premium bill went up from $700 000 to $1.2 million, as the group accurately reports, you would be asking yourself, 'Where the hell will I find the extra half-million dollars to meet the bill?'. The ideological trade union movement, so ably represented in the Parliament these days by the Labor Party, would say, 'Oh, the bosses can find it out of their profits'. That is not said publicly by the Bracks government because it is a pro-business government. The pro-business government has been caught out being anti-business.

The opposition believes it is important for those issues and the Labor Party's contrasting arguments to be aired in a public forum. They will not be just my arguments and they will not be just the arguments from the business community. I suspect the Trades Hall Council will want to come along and explain how all this is good. Mr Theophanous might want to give evidence himself and tell us how he inspired it. We look forward to those who are responsible being held to account.

Even though the government will not like this inquiry, I hope it will show its support for openness and accountability by accepting the existence of the inquiry. I would be supremely disappointed if the government voted against the motion simply because it likes parliamentary committees only if they praise the Labor Party. It likes inquiries only if they support the Labor Party, and of course not all inquiries can achieve that outcome, nor should they.

The important reference to the committee, like the reference referred to in my second notice of motion, keeps faith with the idea of parliamentary committees being able to discuss matters and then reach conclusions on them. Majority and minority reports are expected in a highly charged political environment. We would all be mugs if we did not agree to that occurring. However, the reality is that the great purpose of the public hearings held by parliamentary committees is that they allow ordinary citizens to have a say and be heard as part of the parliamentary process. It is like having your day in court; in the context of public policy, you have your day in the parliamentary sphere and hopefully obtain a response from a government that realises it has made some mistakes.

I urge all honourable members to support the reference to the Economic Development Committee. I look forward to the committee taking on the task, which will not only enhance the stature of the Parliament but also help it solve the Workcover problems.

Hon. M. M. GOULD (Minister for Industrial Relations) — The government believes the motion has some shortcomings and as a result I will move several minor amendments to it. Firstly, I will make a couple of points about Labor's election commitment, part of which was to restore common-law rights to seriously injured workers and to ensure in doing so that the scheme was fully funded.

The government has already undertaken two major reports on Workcover, the Masel report and the common-law working party report, both of which had extensive input by stakeholders. More importantly, they have provided some insight into the financial mismanagement of the scheme. The abolition of common-law rights produced budget shortfalls, and as the previous government did not take the appropriate action to redress financial concerns about the Victorian Workcover Authority, it left a $300 million black hole. That amount would have been far greater had it not been for high investment returns. The authority budgeted for a 5 per cent return on investments but received a 12 per cent return. Had it not done so the figure of $300 million would have been substantially higher.

The government recognises that Victorian businesses have had difficulties as a result of the introduction of the GST and related compliance costs. The government met recently with peak employer groups, and the Victorian Workcover Authority agreed to a package of measures to assist businesses whose premiums have increased. The government has met with the businesses and given those undertakings. The package also includes an undertaking to employers who dispute their premium rises — such as the one the Honourable Ken Smith referred me to last night on the adjournment debate — that there will be immediate responses to their requests for a review of their premiums and that a reassessment will take place if appropriate.

The government has also given a commitment to employers who have genuine hardships meeting their premiums to make individual arrangements for payment of those premiums. Another commitment will enable those employers who had the automatic 20 per cent premium increase imposed because they had not lodged forward estimates of their wages bills to have that rate reassessed and recalculated.

The government has answered the issues raised by the employers. However, it has gone further and said it will review the experience rating system. That review will be undertaken in the next few months in consultation with businesses. It has also said it would specifically look at packages for small businesses, and it hopes to announce details of that shortly after further consultation with small businesses. The government has made commitments to go further than the previous government ever did on issues relating to Workcover premiums. It has also foreshadowed a comprehensive review of business taxes; in its seven years the previous government never even attempted to do anything like that.

Victorians Workcover premiums are below the national average. The Bracks government is unlike the opposition because it wants a scheme that provides incentives for businesses to reduce their premiums by ensuring that their workplaces are safe and that workers are not injured. The motion omits several of those areas, and therefore I move the following amendment to it:

1. In paragraph (a), after 'premiums' insert:

   'including —

   (i) the cost of legislative changes;

   (ii) the effects of liability blow-outs in the past five financial years; and

   (iii) the effect of the GST'.

2. In paragraph (f) omit 'whether' and insert 'what'.

3. After paragraph (f), insert the following new paragraph:

   (g) 'the effect of increased numbers of safety inspectors and greater emphasis on occupational health and safety in keeping average premiums competitive into the future'.

I will go through the proposed amendments to the motion. Paragraph (a) of Mr Birrell's notice of motion 1 reads:

> the reasons for the level of those premiums;

and the government wishes to add:

> including —
>
> (i) the cost of legislative changes;
>
> (ii) the effects of liability blow-outs in the past five financial years; and
>
> (iii) the effect of the GST.

They are areas the government believes need to be taken into consideration when the review proposed by the motion is undertaken because they impact on the premiums. They are not exclusive or exhaustive considerations. The work involved would include taking into account the costs of the legislative changes, because they are the major reason why the premiums went up, acknowledging the effects of liability blow-outs over the past five years and the effects of the GST.

The second amendment relates to paragraph (f) of the motion, which states:

> whether changes should be made to the manner in which Workcover premiums are determined in future.

The government has announced that it is undertaking a review and that it will incorporate changes. The proposal is to delete 'whether' and insert 'what', and the paragraph would then refer to the changes the committee is being asked to come up with. As the Leader of the Opposition said, parliamentary committees are established to put proposals before the government. The government is not arguing about whether changes are needed; it is giving the committee the opportunity to investigate what changes should take place rather than whether they should take place. The government acknowledges that changes are needed.

The third amendment is to add the following paragraph to take into account the whole purpose behind having Workcover premiums:

> (g) the effect of increased numbers of safety inspectors and greater emphasis on occupational health and safety in keeping average premiums competitive into the future.

Workcover premiums enable employers to pay their injured workers; the premiums decrease if the number of injuries is reduced. The opposition's acceptance of the amendments I moved will enhance the motion because the Economic Development Committee's terms of reference will then take into account an investigation of areas that qualify for reduced premiums. The committee will then not exclusively or exhaustively need to concentrate on why premiums have increased, the legislative changes, and the effects of the Workcover liability blow-out and the GST.

If amended, the motion would ask the committee to report to the house on the changes that should take place rather than have it recommend whether changes should take place. The amended motion would acknowledge that changes should be made and that the government is undertaking reviews of Workcover.

Workcover is designed to protect workers. Its emphasis is on improving workplace safety and on reducing injuries to workers. Workers go to work believing they will return home safely and in the same physical condition as when they left home. They do not want to return home after having been injured or maimed at work.

The amendments enhance and do not walk away from the motion. They provide better guidance to the Economic Development Committee and they will ensure that it investigates the relevant issues. The Bracks government is open and accountable, and it has no objection to the motion. I ask opposition members to seriously consider supporting the government's amendments, which should assist rather than hinder the committee's investigations.

On that basis I urge all honourable members to support the amendments to ensure that the motion becomes a sound reference to the Economic Development Committee.

Hon. C. A. STRONG (Higinbotham) — The opposition sees no purpose in the government's amendment 1 that refers to premium levels. The motion moved by the Honourable Mark Birrell is all embracing and does not prevent the Economic Development Committee from investigating or considering any reason for increased Workcover premiums.

The government's unnecessary amendment 1 seeks to add three subparagraphs to the motion. If it wishes, the committee can decide to investigate the specifics listed in the amendment. The opposition does not support amendment 1.

The opposition supports amendment 2, which changes a word. Amendment 3 seeks to take the committee's inquiry into a different area of occupational health and safety, but it does not directly deal with the issue. The motion concentrates on how and why premiums have increased, and so on. The committee's inquiry will reveal whether the government believes its new occupational health and safety regime significantly impacts on premiums. I presume that consideration has been factored into the premiums. That issue is prospective and the amendment is irrelevant. The opposition does not support amendment 3.

I refer to the motion in general. An inquiry by the Economic Development Committee should have a significant impact on the level of future Workcover premiums because its inquiry will not be like some of the pseudo inquiries that have been carried out by the government, with stacked, predictable and pre-ordained

outcomes. An inquiry resulting from the passage of the motion will examine the economic impact of increased Workcover premiums. I will dwell on that aspect later.

The committee's inquiry will be transparent. It will be able to call people to give evidence on oath and to subpoena people who are reluctant to attend hearings. The inquiry will enable people in government, business or whatever, to talk to the committee about their Workcover problems. The transparent process will enable the committee to gain an understanding of what has happened, why it has happened and to recommend solutions.

I am pleased that the government has sought not to oppose the proposed inquiry because at the end of the day its outcome should be positive. Increased Workcover premiums are a major problem to business; they are and will continue to be a festering sore for the government. Victorian business, the economy and the government will benefit if the investigatory committee process provides a remedy to heal that festering sore.

I shall touch on an aspect that is critically important in government actions. Any government, including the Bracks government, should keep uppermost in its mind that its fundamental responsibility is to the people of Victoria. The best thing a government can do for its citizens is to provide them with jobs. Victorians should be employed; they should make enough money to see their families grow up safely in good households. A good economy does just that: it provides the community with good, well-paid jobs.

Regardless of whether we like it, the world is a competitive place. Victoria and Australia are small players in the world scene. If jobs are to be provided the Victorian and Australian economies must be competitive; otherwise there will be no jobs or workers will become poorly paid as the economies of the state and the nation are ground down.

Government members need only reflect on their last stint in government when, over many years, they crushed the Victorian economy with the net result that Victorians suffered. People left Victoria in droves and lived in states that were regarded as more economically competitive.

They left this state without jobs and with debt. This is enormously important: the most important thing a government can do is protect the economy, because that means jobs. The best thing a government can do for its citizens is give them jobs and the security that comes with that.

The Economic Development Committee is very much the appropriate place to deal with those economic issues, to put them up front and to look at the impacts. The huge increase in Workcover premiums knocks about our international competitiveness in a significant way, and as the major manufacturing state in Australia Victoria is doubly hurt by that. We are not isolated; we have to compete with competitors around the world. If we do not, we will be gradually submerged.

The Australian and the Victorian economies are going extremely well at the moment. We have done extremely well in the areas of import replacement and exports. We need to put that into the context of the moment. We have a booming world economy which allows us to have export markets and in terms of import replacement means that the world economy has many other places to which it wants to send its exports, and perhaps it is not as competitive when it wants to penetrate Australia as a relatively small market. There is absolutely no doubt that the current level of the Australian dollar has been an enormous benefit to local industry. There is no doubt that the GST will go a long way towards correcting the imbalance that existed between imports and import replacements. The GST will help that significantly, as will the historically low Australian interest rates. At this point of time there are a lot of things going for this economy.

Hon. T. C. Theophanous — A Labor government in Victoria is one of them.

Hon. C. A. STRONG — I must say, Mr Theophanous, that very few of the things I have run through have anything do with the Labor government in Victoria.

When the economy is going well and all those things are working for us we are able to take on a few poison pills, as it were, without any impact. When things are going really well we can take a little extra weight in the saddlebags and not notice it. Unfortunately there is a tendency for Labor governments to use the time when things are going well to load that extra weight into the saddlebags, but things will not always be going well. When things start to turn, and they inevitably will, when the Australian dollar parity starts to improve, if interest rates start to increase, and if the world economy starts to slow down a little, all these nasties, all this extra weight will be brought to bear. They will come crushing down on the Victorian economy and Workcover, in particular, has a major cost impact. These things build up and, as we saw under the stewardship of the last Labor government, when that dam bursts the results can be extremely bad for the nation and the state.

The Economic Development Committee will look at the impact of all issues that build up. We have had another example in the past couple of days in industrial relations. Once again Victoria seems to be moving to recalcify its industrial relations situation. After two decades of federal governments of both persuasions winding back and freeing up industrial relations, Victoria is heading back to recalcify the old-time industrial relations system. All of these factors will build up and when the economy starts to slow down our competitiveness will be adversely affected. Victoria will suffer, businesses will move, our citizens will find themselves without good jobs and a population shift towards the north will re-establish itself. These are important issues that the Economic Development Committee can deal with. We hope the committee will try to educate the government about the implications of what it has done and get it to see logic and make some changes to Workcover premiums.

I have much pleasure in supporting the motion and indicating the opposition's position on the three amendments: it will support amendment 2 and will not support amendments 1 and 3.

Hon. T. C. THEOPHANOUS (Jika Jika) — Let me say at the outset as a member of the Economic Development Committee and the deputy to the chairman, Neil Lucas, that of course the committee will conduct itself professionally on any references sent to it and will do so in accordance with its legislative requirements; there is absolutely no doubt about that.

However, at the minimum I am somewhat surprised that this motion has been moved at this time. The committee will have to reprioritise, and it is important to put on the record what it will have to reprioritise to conduct this reference. Currently the committee is engaged in a reference relating to the impact of the goods and services tax in Victoria. That report is due to come to the Parliament in the next month. It has been a very intensive inquiry that has consumed the energies of the committee. Beyond that, the committee has a reference that is due at the same time as the reference being proposed today. That reference relates to an inquiry into structural changes in the Victorian economy, including assessing the impact of structural changes in banking, postal communications, municipal services, public transport, and employment services. This is an important inquiry that goes to the heart of some of the things Mr Strong was raising in his contribution about maintaining a strong economy. The difficulty that the committee will face — and it is not easy; it is a very difficult thing — is that that inquiry is due to report by the first day of the spring 2001 parliamentary sessional period, and that coincides with the reporting requirement being put before the house in relation to this reference.

That in effect means that the committee will have to make a decision on the basis of two references that are due at exactly the same time. Unfortunately the committee will not be able to be guided by the legislative framework because under the Parliamentary Committees Act the committee may be given a reference from either Parliament or the executive and no priority is given to either of those references. I suppose that the time at which the references were given might form some of the advice the committee might take, but ultimately that will have to be a decision of the committee. I have no doubt that the opposition intends to use its numbers on the committee to make sure that the inquiry into the Victorian economy and the structural changes in it is downgraded relative to the references being sought today.

The other issue is that the opposition put up two further references to the Economic Development Committee. I would have thought they were important because they included a reference to examine the incidence of youth unemployment in Victoria and options for promoting employment growth over the coming decade — a very important reference. The opposition put it up in a serious way as something it wanted the committee to do and the house agreed to it, but the Leader of the Opposition did not mention that reference in his contribution. He has not said whether the opposition is still serious about the inquiry into youth unemployment or whether it was simply a stunt — something the opposition put up and had no intention of conducting.

The opposition will assign a short-term inquiry to the Economic Development Committee at every politically opportune time for purely political purposes. I would be interested to know from some members of the opposition whether they are serious about the reference that has come to the Economic Development Committee to examine youth unemployment in Victoria and whether the committee will ever get around to conducting an inquiry on it.

Similarly, the opposition put up a reference to the committee about export opportunities for Victorian rural industries. I would have thought that a proactive reference that sought to identify niche markets and export opportunities for rural industries might have been an important reference for the committee to conduct within a reasonable time. Instead, those references that were worked out in the spirit of wanting the committee to do some valuable and long-term work will be pushed to one side, not just by the highly political reference currently before the house but also

by a series of similar references to the committee. They are there for the sole purpose of enabling the opposition to use its numbers on that committee to embarrass the government in some way or other.

That is not in line with the longstanding traditions of parliamentary committees. It undermines the committee system and it shows again that the opposition is not serious about proper references; all it wants to is score some cheap political points, as can be seen by the fact that today the opposition is not even prepared to accept reasonable amendments put up by the government. By voting down the amendment the opposition is giving a signal to the committee that it should not be serious in looking at the effects of blow-outs in the Victorian Workcover Authority over the past five financial years.

Why is that? Why shouldn't the committee be serious about examining what the previous government might have done to cause it to leave the Workcover system with a significant unfunded liability that has to be paid for and caught up with? Why shouldn't it be serious about the effect of the GST premiums, or consider that somehow it is not an important issue for it to examine? The hypocrisy of the opposition can be seen by the very fact that it is not prepared to give the committee a direction on an examination of all the issues that might have led to the increase in Workcover premiums.

It is unfortunate that the opposition has decided not to support that amendment. The lame excuse put up by Mr Strong that the committee can look at anything and that the government should not identify anything in particular that they should look at — —

Hon. C. A. Strong interjected.

Hon. T. C. THEOPHANOUS — Mr Strong knows very well that that is simply an excuse to use the numbers in the deliberations of the committee — deliberations which nobody in the public eye will see. It is an excuse to use the numbers that the opposition controls in that committee to ensure that those things are not looked at, that the GST is not looked at.

Hon. C. A. Strong interjected.

Hon. T. C. THEOPHANOUS — The fact is that the government does not have the numbers on that committee. I have no doubt that the opposition intends to use its numbers to make sure that anything that might be embarrassing to the opposition will not be looked at. That is what that is all about, and that is why it was important for the government to put on the record that the current opposition is not willing to look at all of the issues that might have contributed to increased premiums.

It is absolutely disgraceful that the opposition is not prepared to accept the government's amendment and to look at other factors on the prevention side of Workcover that may have an effect on premiums. The opposition knows very well that the current government has a strong commitment to prevention — one which the opposition never had. It played lip-service to prevention. The government is serious about prevention. It put inspectors out in workplaces to reduce accidents in a concrete way. If that is not to be a part of what the committee will look at it will be one of the factors the opposition has ruled out.

If the committee can identify that there will be long-term advantages of premium reductions as a result of better occupational health and safety regimes or increased numbers of inspectors the government will not be able to put that into a report because the opposition has decided that it will rule out examination of all of the facts. So much for the nonsense the Leader of the Opposition has put before the house in his normal pious and ridiculous way, trying to suggest that somehow the opposition stands on some high moral ground.

There have been many opportunities for the current opposition to examine the Workcover issue. During the course of the work of the Public Accounts and Estimates Committee, its former chairman, the Honourable Bill Forwood, who will be much missed by the committee — —

Hon. R. A. Best — He won't miss you!

Hon. T. C. THEOPHANOUS — I am not sure about that. During his chairmanship of the Public Accounts and Estimates Committee members of the then opposition constantly argued that there should be an inquiry into Workcover. When the Auditor-General was working out his program for performance audits, then opposition members of the committee suggested strongly that the claims management regime of the Transport Accident Commission should be contrasted with the claims management regime that had been followed by the Victorian Workcover Authority. It was our view at that time that the Victorian Workcover Authority's claims management left a lot to be desired when compared with the Transport Accident Commission system.

The minutes of the committee for the meeting of 27 July 1999 show that the Attorney-General moved:

> That the committee approve the proposed performance audit program, with amendments to the Workcover audit to include the management of injury claims.

The government has been serious about examining the Victorian Workcover Authority and how it operates. It is not this side of the house that should be under scrutiny about this scheme. Members of the government have nothing to hide. It is important to put on the record that the Workcover system as it stands today, apart from the recent legislative changes, is very much the product of the previous government, in particular the experience rating system, which was put in place as part of the previous government's changes.

The majority of the large increases illustrated by the examples cited by the opposition derive from the experience rating system put in place by the previous government. The experience rating system results in significant shifts year by year, depending on the number of injuries in the relevant industry.

I recall the arguments that took place when the experience rating system was introduced, particularly about the adverse effects the system would have on small and medium-sized businesses. The history of the impact of the experience rating system on small and medium-sized businesses is easy to trace. During the course of its period in government the previous government managed a wholesale shift in the proportion of the total premium paid by small and medium-sized businesses from under 50 per cent to over 60 per cent — in other words, there was an increase of a full 10 per cent in the proportion of the total pool of premiums that was paid by small and medium-sized businesses. The previous government took no account of the fact that even the Industry Commission had said in its report on Workcover that it was inappropriate to use the full experience rating system for small and medium-sized businesses and that it would have been more appropriate to have a two-tiered system with the bonus and penalty scheme being used for the small and medium-sized businesses.

The government will cooperate with this inquiry, and as a member of the committee I will also cooperate. Members of the government are happy to identify all the issues relating to this issue. I hope the opposition does not try to restrict the inquiry of the committee to a narrow ambit of matters that it believes it may be able to use for cheap political purposes, because that would be a recipe for ensuring the committee does not function properly and does not produce an appropriate report.

Hon. W. R. BAXTER (North Eastern) — I am pleased to support the motion moved by the Leader of the Opposition. There is no doubt about Mr Theophanous, he never changes! He always attempts to paint a picture of the opposition being up to no good and planning to use its numbers on a committee to hide things or take an inquiry in a particular direction. He never produces evidence except his own experience, because that is exactly the way he conducts himself on committees. If he can use the numbers, stack something, or organise it to go off in a certain direction, that is exactly what he does.

Hon. M. A. Birrell — Or a certain destination.

Hon. W. R. BAXTER — Or a certain destination. I can see his work in the amendments moved by the Leader of the Government. It is clear that the Theophanous principle has been at work. Amendment 1 is an endeavour to both limit and confine. The first term of reference in the motion is:

> (a) the reasons for the level of those premiums.

One could not have a wider reference than that. Mr Theophanous attempts to limit the opposition by having the committee concentrate on certain aspects of why the premiums may have increased rather than giving the committee carte blanche to inquire into all the reasons for the premium changes.

Subparagraph (ii) of proposed amendment 1 states:

> the effects of liability blow-outs in the past five financial years …

That is clearly an attempt to have the committee go off on an excursion. No evidence was produced to suggest there had been liability blow-outs. Mr Theophanous wants Parliament to agree to a motion that contains those words. If that were done Parliament would appear to agree that liability blow-outs have occurred before the committee even has a chance to see whether that is true.

I have no objection to the committee investigating that aspect, but I will not be party to having Parliament appear to make it a fact. I was interested in Mr Theophanous's earlier interjection that he might give evidence to the committee on the previous government's financial mismanagement of Workcover. I hope he takes up his own offer because it will enable the committee to test the allegations he constantly makes in this place. Let the committee put Mr Theophanous under the hammer. Let the committee see what sort of evidence he can educe, because I suspect that, as always, he will be found wanting.

In his opening remarks Mr Theophanous suggested that the committee is too busy to undertake this inquiry and that there are too many other things going on, such as references sent by the opposition. Obviously Mr Theophanous failed to listen to the Leader of the

Opposition when he said he was perfectly willing to entertain an extension of the time limit if the committee formed the view that it needed more time. In suggesting that the committee is too busy and that it has other matters of pressing importance on its agenda, Mr Theophanous is not listening to the people of Victoria. The cry to all honourable members is that the increased Workcover premiums are horrendous and need further examination.

If Mr Theophanous and government members were listening to the people of Victoria they would have no difficulty in determining the committee's priorities. The no. 1 priority ought to be: get on with this reference if it is referred to the committee by the house today.

I am keen to support the motion because the explanation from the Leader of the Government in response to Mr Katsambanis's motion last week was entirely unsatisfactory. The Minister assisting the Minister for Workcover did not explain why the premium increases are so high. In the intervening week no explanation has been forthcoming, despite the terms of the motion calling for that information to be made available.

I do not object to this house sending a reference to the Economic Development Committee. The government says it wants the Legislative Council to be a house of review. A letter this week in my local newspaper, the *Border-Mail*, from the Labor Party candidate for the federal seat of Indi calls on the Legislative Council to act as a house of review and to do more committee work. If the motion is agreed to a reference will be sent to the committee. I believe in open and accountable government, and the Labor Party certainly made that its credo at the last election. It went to the people on that point, alleging that the former government was not open and accountable and that a Bracks government would be open, honest and accountable. Here is an opportunity for the government to demonstrate its bona fides. The government will support the motion, but it has moved amendments that attempt to confine the committee.

Amendment 3 is an attempt to send the committee off on an excursion that has little to do with the motion of the Leader of the Opposition and the intent of the motion, which is to look at the reasons for the current increase in Workcover premiums and not to go off and examine what they might be in the future if amendment 3 is adopted and more inspectors are careering around the place telling employers what to do. It is a clever ploy by Mr Theophanous and his colleagues in the Labor Party to have the committee do something quite different from what Mr Birrell's motion intends. I reject amendment 3.

I support paragraph (c) of Mr Birrell's motion, which deals with the impact the premiums have had and can be expected to have on economic activity and employment in regional and rural Victoria, because that is where the big impact is being felt. I know suburban businesses are being substantially affected, but many of the employers on the higher rates are risk industries and tend to be located in country Victoria. They are suffering enormously, and I believe the premiums will have a huge impact on employment prospects in country Victoria.

I shall provide several examples in the electorate of Benalla. I am sure the people concerned have made the honourable member for Benalla in the other place aware of their concerns. A letter from a building contractor states:

> I was allocated an increase in estimated remuneration of $7084 at a time when the building industry is facing a total nose dive in job starts and facing a bleak recovery over the next few years …
>
> …
>
> I am outraged by the increases and I will not be voting for a Labor government at the next election …

I do not think he will be alone. Another letter from a construction company representative states:

> Premiums for 1999–2000 year totalled $11 172.28 and for the year 2000–01 year they are $19 980.92, which is an increase of $8808.64, or is another $170 per week I have to budget for.

Hon. R. A. Best — Almost another person!

Hon. W. R. BAXTER — That is exactly what he goes on to say, Mr Best.

Hon. T. C. Theophanous — You have not shown Mr Best your notes?

Hon. W. R. BAXTER — No; Mr Best is very astute. The employer further states:

> … I was in the process of employing another person but I have had to shelve this thought at this stage.

A plumber from the Benalla area states:

> We were of the opinion last year's premium was far too high. I don't know if you can appreciate how we felt after reading the bottom line on our new premium. A rise from $3100 to $8600 to keep three tradesmen, one apprentice and three labourers. We have let one tradesman go and we will not be replacing him. One labourer has had his hours reduced …
>
> …

> In short, the returns are no longer there for the effort and time we are putting into the business to remain viable.

That is another example of how employment is being affected. An employer from an engineering works in Benalla states:

> [It is] a very substantial increase in such financially difficult times, considering we have only had one claim since Workcover began. We were planning to start another apprentice shortly but we will not be proceeding with this action because of these additional costs.

They are just a small selection of the letters I have received that show employment in rural Victoria will be substantially damaged by the increased Workcover premiums. It is another reason for the Economic Development Committee to have a good look at the reason for the increase to see if it can be explained and, more importantly, to see if it can be reduced.

I, too, see the committee concept as a safety valve. Employers, who had been led to believe by the government and the minister in particular that there would be an increase of 17 per cent to account for the restoration of common-law rights for workers, are feeling let down. They did not like the concept but they were prepared to accept that it was going to happen. However, then they got lumbered with these increases.

Employers feel severely let down and want an outlet in which to state their case, and the Economic Development Committee will enable that to occur.

The letters I have read to the house reveal an enormous loss of confidence. We all know confidence is a fragile thing. Once confidence starts to ebb, it flows away quickly. I agree with Mr Strong's comment that a lot of good things are occurring in the Australian economy but few if any have anything to do with this government. The economy is strong, but it relies on confidence. The increased Workcover premiums could see the beginning of confidence being severely undermined.

Employers will have the opportunity to come to the committee and put forward constructive ideas on how premiums can be managed or reduced in the future. A Wodonga employer, Rancho Holdings Pty Ltd, a large warehouse business and an excellent entrepreneur, is concerned at the way Workcover is administered and the rights the company has as an employer to ensure its employees conduct themselves in the workplace in a safe and responsible manner, particularly regarding alcohol and drugs. It finds it difficult to run its workplace in the way it believes it should and the way it believes it is compelled to run it under the Occupational Health and Safety Act. I have recommended to that employer, as I have recommended to many other employers, that it take the opportunity to give evidence to the committee. That will enable it to put forward its views and thus report to Parliament on how it believes the Workcover system can be improved and the responsibilities between the employer and the employee can be better balanced. Most importantly, the community will be able to get to the bottom of these largely unexplained but heavy increases in Workcover premiums.

Hon. G. W. JENNINGS (Melbourne) — I would not want to miss my opportunity to indicate the government's support of the appropriate use of the Parliamentary Committees Act and appropriate references to committees that fall within the scope of that act. I support the Economic Development Committee inquiring into important matters of the day, including this important issue of the effect of Workcover premiums on Victorian businesses.

This issue has been the subject of debate in this place during the past week, and during that debate I outlined the government's response to concerns raised in the community about the effect of increased Workcover premiums on Victorian businesses. I expressed the government's response to those concerns.

I shall briefly put on the record how the government has responded to the concerns and why the views of members of the government supplement the reference proposed by Mr Birrell and work hand and glove with the motion he has moved.

Soon after the Victorian Workcover Authority had issued the new premiums for Victorian businesses for the current financial year the Premier, the Minister for Workcover and the Minister for Small Business met with peak employer groups and the authority and agreed on a package of measures to assist businesses whose premiums had increased. That package included a commitment to enable any employer who believes his premium was adjusted inappropriately to seek an urgent and immediate review of the premium and obtain an undertaking from the authority about the derivation of the premium. Employers who have had an automatic 20 per cent adjustment to their payrolls, which was an administrative practice to encourage employers to lodge accurate figures for their payrolls for this financial year, obviously perceive it as a draconian measure. The government has made it clear that any employer who immediately identifies the appropriate payroll level to the authority will receive an immediate adjustment to the premium that applies to that employer.

Recently the Minister for Workcover announced that the government will institute a review of the premium regime — the experience rating system, the premiums based upon industry sectors and any measures within the scheme itself — to address the disproportionate burden that may fall on small businesses. In fact, the government has announced its intention to support a package for small businesses that may have been adversely affected.

During the debate last week I said it was important to keep this issue in perspective. The perspective I bring to this debate is that within the new premium regime introduced for this financial year at least one-third of Victorian businesses have had their premiums reduced. Even under the regime that has led to concern in the community, Victorian premiums are still well below the national average.

The government is comfortable with the proposed reference to the Economic Development Committee. The inquiry will run in parallel with the review the government will institute because of its concerns about the impact increased Workcover premiums will have on Victorian businesses and its clear intention to reduce the burden of Workcover premiums in the immediate future and in the long term.

The dual focus of the government in ensuring the ongoing financial viability of the scheme is the impact of premiums upon businesses and the competitive cost structure of premiums. The government is also concerned to ensure that the Victorian Workcover authority plays a constructive role in reducing the incidence of occupational health and safety injuries in the workplace, which over time will play a role in reducing pressures on premiums. That is the scope of the issues that unite the chamber, and both sides of the house are comfortable about forwarding a reference to the Economic Development Committee.

It is interesting that the issues dividing the chamber relate to proposed amendments to the motion moved by Mr Birrell. The motion is reasonably worded and well drafted and well suited to the reference given to the committee. However, the government seeks to vary the motion in three instances.

By its amendments to the terms of reference the government seeks to specify the reasons for the level of premium increases and to make it clear that there are three substantial components to the increases in premiums during the current financial year. The first reason is the cost of legislative changes introduced by the government, which was the restoration of common-law rights for seriously injured workers. The second reason is the effect of the liability blow-outs in the past five financial years which has been contested today but which was not an issue during the passage of the Workcover legislation earlier in the year.

Consideration of the report on common-law rights that was tabled in Parliament and of the financial considerations of the scheme as outlined at pages 20 to 32 of the report indicates that, despite the best information available to the Victorian Workcover Authority and the government of the day in terms of its performance over the past five financial years, there was an underestimation on the liability of the scheme and at the same time a greater than expected financial return from the investment portfolio of the scheme. If that had not been the case the financial exposure of the scheme would have been greater due to an underestimation of the claims that existed at the time.

Clearly, that is significant in the consideration by the government and the Victorian Workcover Authority of the ongoing financial viability of the scheme. The government seeks to add that to the terms of reference because it is a critical consideration when looking at the scheme the current government inherited, and an important aspect it will need to consider in the future.

The third item the government seeks to include in paragraph (a) of the terms of reference is the impact of the GST, which has played a role in premium increases in that 10 per cent has been added to the premiums paid by employers. As the opposition rightly pointed out this morning, that component is a tax input credit that employers can obtain to reduce the net premium they pay.

They are the three critical issues that have impacted on the increase to premiums paid by Victorian employers. It is worth putting on the public record, both as part of the motion by the house and the consideration by the committee, that they are the three prime movers of premium increases this year.

By its second amendment the government seeks to amend the Leader of the Opposition's motion by changing paragraph (f), which asks that the Economic Development Committee inquire into:

> whether changes should be made to the manner in which Workcover premiums are determined in future.

The government seeks to remove the word 'whether' and replace it with 'what'. In so doing, it clearly acknowledges there will be changes to the premium structure in the future. It is a concession straight off the bat by the government. Whether there should or should

not be changes is not contested; it is a question of what changes should be made.

The gamut of the responsibility of the Victorian Workcover Authority includes an insurance regime that applies to workers compensation and it also has a role in the prevention of injury and illness in the workplace. That plays a positive part in the reduction of the financial liability of the scheme and reduces the pressure on premiums to rise. That is the final issue the government seeks to provide to the terms of reference of the committee. It believes that, of all the issues, the prime issue that will reduce pressure on premiums increasing in the future is improved health and safety in Victorian workplaces.

Amazingly, in the debate this morning the opposition refused to allow the role of the authority in reducing pressure on premiums in the future to be considered in its proper context. It refused to acknowledge that the reference given to the Economic Development Committee should include any role the Victorian Workcover Authority may play in health promotion and that the reduction of the incidence of workplace illness and injury is the most significant contribution by Victorian workplaces and Victorian employers to reducing the pressure on their premiums in the future.

It is extraordinary that the opposition will oppose that amendment being added to the terms of reference. Unfortunately, that has thrown into doubt the bona fides of the review. My colleague Mr Theophanous referred to his doubts about the motivation of the review and the terms of reference as they have been limited by the opposition this morning.

The government is more than prepared to have the activities of the Victorian Workcover Authority and the issue of the premium determination considered by the committee. It is prepared to participate in the review. As I volunteered in my contribution both in the debate last week and again this morning, the government and the Victorian Workcover Authority are prepared to immediately address the concerns of any employer or employer's representative about the imposition of the premium rate increases of this year, and will take immediate action for any employer who, in discussions with the authority, discovers that its premium level has been inappropriately set. They are the direct and immediate commitments the government willingly entered into.

The government encourages the Economic Development Committee to recognise the proper scope of the reference and thereby supports not only the original motion of the Leader of the Opposition but also the amendments that have been moved by the Leader of the Government. Certainly that is the way I will vote on the motion.

Amendment 1 negatived.

Amendment 2 agreed to.

House divided on amendment 3:

Ayes, 14

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

Noes, 29

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

Amendment negatived.

Amended motion agreed to.

PARLIAMENTARY COMMITTEES

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

That the resolution of the Council of 1 March 2000, requiring the Scrutiny of Acts and Regulations Committee to inquire into the Parliamentary Committees Act 1968 and to report to Parliament by 30 June 2001, be amended so far as to now require the committee to report by 30 November 2001.

The motion alters the time the Scrutiny of Acts and Regulations Committee has to report on the reference the house gave it earlier this year to look into the future of parliamentary committees in this state.

On 24 August I received a letter from Mary Gillett, the Chair of the Scrutiny of Acts and Regulations Committee, noting that the committee had met and decided to ask that the date for the inquiry's report be extended to 30 November 2001. I can report that the decision was unanimous. I congratulate Ms Gillett on adopting that sound procedure of seeking a slightly later

reporting date to ensure that the committee can better look into the issue. I look forward to the committee reporting to the house by November next year on the important issue the house has asked it to inquire into.

Hon. M. M. GOULD (Minister for Industrial Relations) — I also received a letter from Mary Gillett, the honourable member for Werribee in the other place and the Chair of the Scrutiny of Acts and Regulations Committee, asking for an extension of the reporting date from 30 June 2001 to 30 November 2001, and I support that proposal.

Motion agreed to.

LIQUOR: LICENCES

Hon. BILL FORWOOD (Templestowe) — I move:

> That this house calls on the Minister for Small Business to immediately take all necessary steps to fulfil the Labor Party's election commitment, contained in its small business policy document, 'Taking care of small business', that the Bracks Labor government would close legislative loopholes which allow large retail chains to accumulate more than 8 per cent of the total number of packaged liquor licences.

It is appropriate that this important issue be debated today so soon after the release of the government's report. It is disappointing that the house will have only 1 hour for debate on the issue, but I am pleased it has been given that opportunity, even though it is limited. I thank the government for its accommodation in enabling the house to deal with the business of Mr Birrell and also the motion I have moved.

I am also conscious of the fact that the Minister for Small Business is extraordinarily ill; if I were her doctor I would send her home. However, I am grateful she has decided to stay for the debate. I understand that she is ill and I doubt that she will be able to respond quite as vigorously as she may otherwise have done. I accept that fact and thank her for being here.

Given those circumstances, it will be difficult for me to discuss the important motion because I intend to be critical of the minister and her behaviour. I will give one small example. Following pressure from the opposition, the government's report has finally been released, but the minister in her wisdom decided it would be distributed only to Labor members of Parliament. Her department has distributed copies to the Labor members of Parliament, but none were made available to opposition members. I regard that as petty, small-minded and, frankly, vindictive. It is out of character for the operations of the Parliament. I obtained the report off the Web, but I understand that the minister in her wisdom decided it would be made available only to Labor members.

Hon. T. C. Theophanous — Did you ask?

Hon. BILL FORWOOD — Yes, I asked. I do not have a hard copy and government members do. That action was petty, small-minded, vindictive and unnecessary; it demeans Parliament. However, I will deal with the substantive issue, which is simple: what did the government promise Victorians, and will the government keep its promise?

Until this morning I was a member of the Public Accounts and Estimates Committee and this year I sat through its estimates hearings. I heard more than one minister tell the committee that the Bracks government gives commitments, not promises, and it keeps its commitments. But will it keep its commitment on this issue?

The motion calls on the government to take the necessary steps to fulfil the commitment given during last year's election campaign, that a Labor government would immediately and retrospectively close the loopholes that allow large retail chains to accumulate more than 8 per cent of the total number of packaged liquor licences.

The then opposition's policy document revealed that it was concerned at the growing concentration in the retail liquor hotel and gaming industry and that Labor would reinstate an 8 per cent limit on the holding of retail liquor licences.

The Labor Party made it clear that it did not favour the abolition of the 8 per cent rule. Mr Theophanous and the present Minister for Police and Emergency Services in the other place made it clear when liquor reforms were debated in 1998 that they opposed the removal of the 8 per cent general liquor licence limit.

Hon. T. C. Theophanous — You didn't make it clear at the time.

Hon. BILL FORWOOD — I made it clear.

On 25 May 1999 the then shadow Minister for Police and Emergency Services gave notice of a motion in the other place that states:

> **Liquor Control Reform (Amendment) Bill**
>
> **Mr HAERMEYER** (Yan Yean) — By leave, I move:
>
> That I have leave to bring in a bill to amend the Liquor Control Reform Act 1998 to correct a loophole relating to the limit on the proportion of packaged liquor licences that can be

held by any person, body corporate or related entities, and for other purposes.

The Labor Party has form on the issue; the previous shadow minister has form; and you, Mr Theophanous, have form. The Labor Party policy has form. What are you doing now, Mr Theophanous? You are walking away from your policy. Let us not use mealy-mouthed words. Let us be clear, Mr Theophanous. Look at the report, the release of which the opposition forced in the past couple of days. The government did so only because we got a leak, and that forced the minister to release it.

Hon. T. C. Theophanous — What a load of rubbish.

Hon. BILL FORWOOD — Be fair! The terms of reference released by the Minister for Small Business showed that the report was to be finished on 31 May. There can be no dispute about that; nor can there be any dispute about an extension of the reporting date to 30 June. There is no doubt that the report was finalised in the middle of June. I challenge honourable members to read the report, as I have done, to find that its language indicates that the report was completed before 1 July.

What has happened in the, at least, 10 weeks the minister has had the report? What has she done? She sat on it because she is in a real dilemma. The minister can hear the flapping of the chickens' wings as they come home to roost. The minister does not know how to deal with the report, which makes recommendations that go against the policy the Labor Party took to Victorians at the last election.

The report recommends against the stance taken by the previous shadow Minister for Police and Emergency Services and what Mr Theophanous said in this house when he debated the legislation in November 1998. The minister sat on the report. She released it only when the opposition exerted pressure. Later in my contribution I will draw comparisons between what was in the original report prepared by the independent Office of Regulation Reform and the changed version that has now been publicly released on the Internet — but not in hard copy form to members of the opposition. I will return to that later. As Mr Theophanous knows, the issue concerns market dominance.

Hon. T. C. Theophanous — You support market dominance.

Hon. R. A. Best — We rejected it in 1998.

Hon. BILL FORWOOD — Thank you, Mr Best, for your contribution.

The DEPUTY PRESIDENT — Order! I ask Mr Theophanous to cease his conversations across the chamber. Mr Forwood has the call.

Hon. BILL FORWOOD — I will go through the history. In 1982 a chain of liquor stores, now known as Liquorland, had 61 liquor stores or just short of 8 per cent of the total number of packaged liquor licences in Victoria. The government of the day decided to cap at 8 per cent the number of licences any organisation could hold. Mr Nieuwenhuysen in 1987, and the Honourable Chris Strong and the Honourable Andrew Brideson and their colleagues as members of the Public Bodies Review Committee in 1995, recommended the abolition of the 8 per cent liquor licensing law; but those recommendations were not acted upon.

In 1998 a former minister, the Honourable Haddon Storey, recommended that the 8 per cent packaged liquor licence limit be abolished; but that recommendation also was not picked up. Past governments have decided that they would keep the 8 per cent limit although there may be an economic imperative by some for doing away with it.

Hon. T. C. Theophanous — You weren't prepared to close the legal loophole.

Hon. BILL FORWOOD — Nor are you. It is your policy and you are walking away from it, Mr Theophanous. No wonder the minister hangs her head. Are you trying to help or hinder her, Mr Theophanous?

The national competition policy review undertaken by the Honourable Haddon Storey on behalf of the previous government recommended a number of other things — the removal of the 8 per cent cap on general liquor licences and, perhaps more importantly, removing the needs criteria that was another impediment preventing entry into the liquor market. That was an important recommendation.

Despite the recommendations in the reports of Mr Storey, the former Public Bodies Review Committee, and Mr Nieuwenhuysen in 1987 the government decided in its wisdom to keep the 8 per cent limit on packaged liquor licences. Why? Because in Victoria today Coles and Woolworths have 40 per cent of the packaged liquor sales.

You were the hero, Mr Theophanous. You should read the speech you made on duopoly, market dominance and market concentration. The opposition tried to keep

in place and protect the 8 per cent limit on general licenses as well. And the Labor Party committed itself to going even further with the latest report. But now the government has decided to renege on the commitment made to Victorians.

Hon. T. C. Theophanous — How do you figure that out? Explain it.

Hon. BILL FORWOOD — I read the report.

Hon. T. C. Theophanous — Explain it to us, seriously.

The DEPUTY PRESIDENT — Order! Give the member the opportunity to try.

Hon. T. C. Theophanous interjected.

The DEPUTY PRESIDENT — Order, Mr Theophanous! You will have your opportunity later.

Hon. BILL FORWOOD — The government is abrogating the responsibilities of the office, there is absolutely no doubt about it. That is apparent when one compares what was in the leaked version that we got which talks about the phasing out — —

Hon. T. C. Theophanous — What is he talking about?

Hon. M. R. Thomson — I don't know what he is talking about.

Hon. BILL FORWOOD — The minister does not know what I am talking about.

Hon. T. C. Theophanous — You are making it up.

Hon. BILL FORWOOD — No, I am not. The opposition was fortunate enough to get some extracts of the document entitled 'Review of the 8 per cent limit on liquor licence holdings' last week, which was substantially before the government released the document this week, and I have read it and made some comparisons. A lot of the material in the review is the same, there is no doubt about that. However, the spin meisters have gotten hold of it and where it says, for example, in the leaked version:

> Given the above conclusions, the review considers it would be inappropriate to immediately abolish the 8 per cent limit.

The words have been changed now so that that paragraph now reads:

> Given the above conclusions, it would be in the public interest to retain the 8 per cent per cent limit until a suitable alternative is developed that meets the government's objective …

Hon. T. C. Theophanous — What page are you reading from?

Hon. BILL FORWOOD — Page xii. The government is moving away from the commitment and it is trying to camouflage that with mealy-mouthed words. The same thing applies to recommendation no. 1. In the extract it states:

> While it would be inappropriate to immediately abolish the 8 per cent limit, the government should seek alternative means to promote the viability of independent liquor stores and diversity in the market.

That is changed in the later version to:

> The 8 per cent rule should not be removed until there is a mechanism in place to ensure diversity in the marketplace.

Same concept, different words.

Hon. T. C. Theophanous interjected.

Hon. BILL FORWOOD — That is on page xii of the executive summary. There is no doubt that the document was done by an independent body, that it was finished in June, that it was with the minister, the minister's advisers or the department in some sense for 10 weeks, that in that period the government grappled with how to deal with the breach of its commitment, and that in later stages, after the opposition received its leak, the government decided that it would get the spin doctors onto it and change the words. As a result the government has come up with this new version. I will quote some more from it later.

The government then shot out to see if it could get a bit of support for what it had done. Yesterday, as recorded in *Hansard*, the Minister for Small Business quoted extensively — six paragraphs — from the press release issued by the Liquor Stores Association of Victoria (LSAV). The press release said some quite nice things about the minister and the process but the minister did not read the paragraphs that she did not want to read. Again, it is selective reporting, and that is typical of the way the minister has behaved throughout this whole saga. The minister did not read out the part that states:

> The main recommendation … is fully supported by the LSAV, but only on condition that any replacement mechanism, if it can be found, must be at least as effective as the 8 per cent rule in ensuring diversity and an assured role for small business in this industry …
>
> 'A simple phase-out which removes the "8 per cent cap" would not be viewed as an acceptable mechanism,' said Mr Wilkinson.

The minister read the next sentence, which goes on about consultation, but by her selective reporting of the press release the minister highlights the very point about the way this whole process has been conducted.

If members go back to the original letter from the Premier dated 10 January this year they will see that it was very detailed. Members can see the dilemma between keeping an election promise and finding a way of doing away with the 8 per cent limit. The letter states:

> As you are also aware, our election policy committed the Bracks government to the retention of the 8 per cent cap on holdings of packaged liquor licences and to reintroduce the 8 per cent cap on holdings of on-premises licences.

The government will not do that. There is no way the government will do that, will it? It will not. The government is not going to come in with legislation to reintroduce that cap, and the minister knows it. If honourable members read the review document that has been released they will see the whole way through that there is no intention of doing that. Paragraph C1 deals with phase-out linked to the industry adjustment program, and if members go further back into the body of the document and read the details they will find that even where it says that perhaps a regional cap should be considered it goes on to qualify the recommendation. Members need to be very careful about that.

The executive summary of the report states:

> … the office has found that the Victorian market for packaged liquor is intensely competitive and offers consumers a diverse range of shopping experiences since the changes introduced by the Liquor Control Reform Act 1998. There is no significant barrier to entry for a business to obtain a packaged liquor licence. A comparison of interstate regulatory arrangements of packaged liquor licences revealed that the Victorian regulatory framework is clearly the most progressive in Australia.

It is the most progressive in Australia, yet we kept the 8 per cent cap. We can argue with the National Competition Commission that there is absolutely no impediment to competition, as the government's own report says, by the use of the 8 per cent limit on packaged liquor.

If members want to go further they can read the extract from the LSAV newsletter no. 2 of July 2000, which contains an extract from the Australian Hotels Association's May update, which talks about the AHA's conversation with the Prime Minister. It states:

> The Prime Minister was advised that the end effect would be to benefit a couple of major retail chains —

Coles and Woolworths —

> ultimately severely limiting consumer choice and severely damaging many small businesses in the hospitality sector.
>
> The Prime Minister emphasised that it was not the purpose of national competition policy to lead to those outcomes and indicated that his government could not support measures that provided market dominance to a few players and initiatives that would damage small business.

The previous government dealt with this issue: it freed up the market but kept the 8 per cent cap. The Labor Party promised to keep the 8 per cent cap, it promised to close the loopholes and it promised to wind back the abolition of the 8 per cent cap on general liquor licences. We have a new inquiry under the national competition policy, and what has the government done? It has squibbed it.

Despite the fact that the Prime Minister is on the record as saying that the intention is not to hand market share to Coles and Woolworths; despite the fact that the previous government did the review and abolished the needs clause; despite the government's own report saying there is no diminution in competition; and despite Victoria's having an intensely competitive market, the government is not prepared to come out as it should and say that the recommendation of this report was that the 8 per cent limit be abolished, but that it should not be accepted. The government is not prepared to accept a report that says that the 8 per cent limit should be abolished — as Nieuwenhuysen said; as the Public Bodies Review Committee said; and as the Storey committee said — but that it will not do it in the interests of regional and rural Victoria.

All the government had to do was follow what the Premier asked in his letter. He said:

> The review will need to report early in the June quarter to provide sufficient time to develop a government response and, if necessary, to allow for legislation in the spring 2000 sittings … I would appreciate a response by 11 February …

The intention was that this report would be done early, that it would be released, that the government would come to this place and that it would find a mechanism to keep its promise to the people of Victoria.

That was the intention. What did the government do instead? It received a report, panicked, hid it, doctored it. Right? The government doctored it, there is no doubt. It compared the words and doctored it and now it is trying to find ways of getting out of it.

There is no doubt the government should have released the report for public consultation at the time, if that was what it wished to do, and made it clear it would keep its promise. The livelihoods of little pubs and liquor stores are at stake. Does the minister want to go to the seven

country towns where there are currently unlicensed Coles or Woolworths stores and say, 'Sorry, they are going to bring a liquor licence in here tomorrow.'? Did the minister read the submission from Ritchies? It is in her own report. Ritchies said:

> For the independent liquor stores of Kyneton and Wonthaggi, the 8 per cent rule provides some protection …. from the major chains opening a liquor store. In the case of Wonthaggi, the only two packaged liquor stores in the town are Ritchies Supermarkets and Coalfield Cellars. Ritchies argued in its submission … that the licensing of the nearby Safeway supermarket would have dire consequences for its supermarket and the town:
>
> > We submit that if the Safeway store was subsequently licensed, the Ritchies store would be decimated. Employment would suffer, local suppliers would be reduced. Competition would suffer as would the size of the Ritchies store. We submit that two successful businesses would be reduced to one in the town.

The minister should read the report. She should read what the Victorian Wine Industry Association says. It supports the 8 per cent limit. She should read what the drug and alcohol foundation says. It supports the 8 per cent limit. But what does she do? She ducks, runs for cover. She deserts her constituents. The people of Victoria know that this is not the first time the minister has done so, and they are beginning to become more aware of that. They know that when the Workcover debate was on she was nowhere to be seen. They know that when the Shop, Distributive and Allied Employers Association made its claims against all the mums-and-dads stores, the milk bars and the small stores around rural and regional Victoria, she was nowhere to be seen. They know that when the tobacco matter arose it was handled by the Minister for Health — and there was no reference to the minister. The minister admitted that in Parliament.

Hon. M. A. Birrell — She did not even get an appointment.

Hon. BILL FORWOOD — Right. That is just another example of the way the minister wanders around and meets people. She is nice — nice and ineffectual. It is very sad.

At the moment there are 10 800 liquor licences in Victoria, of which 1290 are packaged liquor licences and 1912 are general licences — pubs. What will it be when the government has finished with the report? It will be a betrayal of small business and a transfer of market share to Coles and Woolworths. At the moment 100 Coles and Woolworths stores are unlicensed. If the 8 per cent rule is abolished they will get licenses straightaway. Not only will small business be decimated but the minister will demonstrate to Victorians that her word is worthless, that it does not matter what she says because at the end of the day she is not prepared to keep her commitments.

The DEPUTY PRESIDENT — Order! I call the Minister for Small Business.

Hon. M. R. THOMSON (Minister for Small Business) — Thank you.

Hon. Bill Forwood — I thought you had lost your voice!

Hon. M. R. THOMSON — I have, and I apologise to the Hansard staff. I would like to give a robust response but I am muted at the moment because of my vocal chords and I do not know how long my voice will hold out. I move as follows:

> That all the words after 'house' be omitted with the view of inserting in place thereof 'congratulates the government on releasing the review of the 8 per cent limit on packaged liquor licences in light of its requirements to satisfy the National Competition Council that maintaining an 8 per cent limit would not run counter to competition policy, and also notes that in meeting this election commitment the government will consult widely with the industry'.

Because of the correspondence from the National Competition Council the review was a necessary part of meeting the government's election commitment on the 8 per cent limit on packaged liquor licences. As I stated yesterday, if the opposition when in government had been serious about looking after the small liquor stores, the small mixed grocery stores and the hotels, it would have conducted a review in its period of office. It would have come up with the response to the NCC. It failed to do so. Not only did it fail to do so, it failed to have even a policy position on the matter when it went to the election.

I congratulate the Office of Regulation Reform on its conduct of the review. The office consulted widely, and I will refer to those with whom it consulted shortly.

I welcome the report's recommendations because they reinforce the government's capacity to ensure that the 8 per cent loophole is closed in respect of general licences. It will also enable the government to consider a number of other options to help small business operators conserve their businesses. It must also be recognised that all who were involved in the consultation process accepted that in the longer term the 8 per cent situation would have to be looked at, and other measures may have to be considered to assure the protection of small businesses in the industry.

Recommendation no. 1 of the report states:

> The 8 per cent rule should not be removed until a mechanism is in place to ensure diversity in the marketplace.

That indicates it may be possible to put in place alternatives to ensure that diversity is maintained. The government supports the retention of the 8 per cent rule. It also supports the notion that ongoing consultation will occur in the industry to ensure that mechanisms are in place for the longer term — beyond this term of government — to protect diversity in the marketplace.

Recommendation no. 2 is the one I most welcome. It states:

> The act be amended to require that the Director of Liquor Licensing to reject an application for a general licence if the applicant would be unable to obtain a packaged liquor licence on the grounds of section 23 …

That would close a loophole that has allowed people to obtain general licences when they have been selling packaged alcohol.

An honourable member interjected.

Hon. M. R. THOMSON — The government is not abolishing the 8 per cent. Recommendation no. 3 states:

> The Minister for Small Business seeks the approval of the commonwealth Minister for Employment, Workplace Relations and Small Business to expand the scope of the Retail Grocery Industry Code of Conduct and Ombudsman scheme to include packaged liquor retailing.

That has been welcomed by the industry sector. Recommendation no. 4 states:

> The Minister for Small Business instructs the Coordinating Council on the Control of Liquor Abuse to consider what impact a possible replacement of the 8 per cent rule might have on the incidence of alcohol-related harm and to begin preparation of a strategy for monitoring that.

As I said, in the longer term — not in the short to medium term — the industry would like to look at other mechanisms beside the 8 per cent to protect diversity in the marketplace, and the government is happy to go down that path with it. As I also said, the previous coalition government did not act on the 8 per cent rule. It left it in a void because it expected to win an election and could then do away with it. What else could it do? It was told it had to do it under National Competition Policy, or forfeit.

We were not prepared to do that. We believe we provide the most competitive marketplace in Australia for the sale of liquor, and a review would demonstrate that. The review, which says we are competitive, states:

> Regardless of any restrictive effect of the 8 per cent rule, the office has found that the Victorian market for packaged liquor is intensely competitive and offers consumers a diverse range of shopping experiences since the changes introduced by the Liquor Control Reform Act 1998. There is no significant barrier to entry for a business to obtain a packaged liquor licence. A comparison of interstate regulatory arrangements of packaged liquor licences revealed that the Victorian regulatory framework is clearly the most progressive in Australia.

The National Competition Council says we are the most competitive marketplace and there is no restriction to competition. The government is talking about closing the loophole that allows people to get in through the back door. The review will enable the government to go down that path. It is one step in implementing the government's policy.

If the review had been unfavourable I would, as minister, have submitted it for consultation. The government has submitted it for consultation and is continuing to do so. Consultation on the report was originally to be for 28 days, but the period of consultation is now six weeks. If the government had not supported the recommendations in the review I would have said so, but the government supports the recommendations.

It also supports and recognises the need for diversity in the marketplace and ensuring small business has a long-term role to play in the liquor industry. The government is ensuring that it puts a clear and cognisant case to the National Competition Council that backs its position. The review backs the government's position, which is that it is a competitive marketplace and the 8 per cent rule does not inhibit that competition.

The Office of Regulation Reform conducted the review with the advice and guidance of an expert reference group comprising Associate Professor David Johnson from the Institute of Applied Economic and Social Research from the University of Melbourne, Mr John Sweetman from the Victorian Employers Chamber of Commerce and Industry and Dr Chee-Wah Cheah, a former assistant director of policy at the Department of Treasury and Finance.

Extensive consultations were held with the industry associations and individual businesses, a half-day workshop was convened, a survey of consumers was conducted, site visits were undertaken and case studies were carried out on metropolitan and regional areas. Public submissions were also sought. The Office of Regulation Reform examined the costs and benefits of reform with particular regard to the interests of consumers, the effectiveness of protections under the Trade Practices Act, social welfare considerations, economic and regional development effects, and employment and investment impacts.

There was no secrecy about the review. As I have said, it involved consulting with over 25 key industry and community organisations; attracting 16 written submissions; convening a half-day workshop with representatives of key interest groups; commissioning a survey of 1000 liquor consumers across Victoria; and undertaking numerous site visits and case studies.

It will now consult for six weeks. We look forward to the consultative process and the contributions small retailers will make in that process. We also welcome the support of the Liquor Stores Association of Victoria in the conduct of the review.

Hon. Bill Forwood — Who wrote the press release?

Hon. M. R. THOMSON — The association wrote it. I know you are disappointed, Mr Forwood. The government is meeting its commitments.

Hon. Bill Forwood interjected.

Hon. M. R. THOMSON — You are reading options that are available but not determined. The recommendations are for the retention of the 8 per cent, strengthening it and closing the loophole. Industry groups understand what is intended. They also understand that in the long run the 8 per cent may have to be examined.

Hon. Bill Forwood — How long is the long run? Next week?

Hon. M. R. THOMSON — I look forward to your support when legislation is introduced to tighten the loophole. Mr Forwood should have learnt from pre-empting a report that was not the final report. He should not attempt to pre-empt this final report or the legislation that will be introduced.

The government will meet its commitments to the electorate and looks forward to the consultative process. The document went before a cabinet subcommittee to assess a time line for consultation to ensure that it was widely agreed to. The report recommended 28 days. The subcommittee sought its extension to six weeks, which has been agreed to.

Hon. Bill Forwood — Was there an editing committee?

Hon. M. R. THOMSON — There was no editing committee. You do not necessarily know everything. You may think you do, but you do not.

The Australian Hotels Association discussions with the Prime Minister have not been concluded. The federal government will get away with not conducting a review of the 8 per cent because the Bracks government has conducted that review, and the review defends the position of the 8 per cent.

Hon. Bill Forwood — The first recommendation is to phase it out.

Hon. M. R. THOMSON — It is not. The first recommendation is not a phase-out. Mr Forwood should read it in conjunction with recommendation no. 2 and understand what it says.

Hon. Bill Forwood interjected.

Hon. M. R. THOMSON — If Mr Forwood wants to misinform and imply things that are not there, that is his prerogative. The government will be following the recommendation for a consultative process, which we are about to enter into, to ensure that Victoria retains the 8 per cent and closes the loophole.

I welcome the report, the recommendations and the consultative process. I thank the Office of Regulation Reform for the way it conducted the review.

Hon. R. A. BEST (North Western) — On behalf of the National Party I support the motion. It has been the position of the National Party to support the retention of the 8 per cent rule. Two documents were produced that were the precursors to the reform of the Liquor Control Act in 1998. Recommendations have continually been made that would abolish the 8 per cent rule and it has been argued that in meeting national competition requirements the government should take the opportunity to throw open the liquor market to provide greater competition in the liquor industry.

Following the review undertaken by the Honourable Haddon Storey in 1987 the following recommendation was made at page 78:

> The review recommends that the 8 per cent rule for general and packaged liquor licences be removed from the act.

I am delighted that at that time coalition members undertook considerable debate in the party room. The then minister took advice to resist the opportunity to comply with the recommendations of the committee and looked more widely at the impact on small business. Her approach provided a diverse, competitive industry, balancing the interests of small business with the total liquor industry.

My background is that of a hotel operator, so my views are somewhat coloured. I do not mind admitting that. The sale of packaged liquor in supermarkets unquestionably led to price reductions. The practice of

using packaged alcohol to market liquor as a loss leader has severely impacted on the hotel industry. Major chains have approximately 80 per cent of the retail market. The question that must concern the government is: how far do we go when accessing national competition policy funds that require governments to gauge the impact on the overall industry under review? I have major concerns about the way the liquor industry has been exposed to national competition policy and the way major supermarkets are able to use their product range to enjoy discounting liquor at an overall cost to the liquor industry.

The circumstances in my home town provide a synopsis of the impact on the hospitality industry of deregulation, which gives major supermarkets the opportunity to sell packaged liquor.

Unquestionably Victoria has an excellent, diversified hospitality industry with a range of restaurants, bars, cafes and bistros that allow for the sale and consumption of liquor in the European style. The process has evolved in a balanced and managed way. As a major regional centre, Bendigo has seen the growth of a range of cafe-style eating establishments with umbrellas, tables and chairs flowing onto its streets. Those developments have added to the cosmopolitan atmosphere of the community.

However, at the same time major supermarkets sell packaged liquor. The Bendigo area has some 58 hotel licences, and the hotels perform a range of business functions. Some have gaming machines, some have Pubtabs and some have bistros. Some rely on the sale of packaged beer and some rely on bar sales. They undertake a range of functions.

Their ability to compete against supermarkets, which have a wider product range, is limited, particularly when those supermarkets are prepared to discount and use packaged liquor as a loss leader. The hotel industry has limited resilience when fighting the strident retail sector that is dominated by the supermarkets. The Australian Hotels Association estimates that approximately 90 per cent of Bendigo hotel licensees — about 58 licensees — are teetering on the edge and finding it hard to maintain their viability. The livelihoods and employment opportunities of some 550 to 600 employees in the hospitality industry are threatened because supermarkets use packaged liquor as a loss leader.

Some may argue, quite rightly, that consumers are the beneficiaries, and that may be so. However, the case study in the minister's report cites the example of Castlemaine. People travel 35 kilometres to shop in Bendigo because of the strong presence of the major supermarkets and their liquor outlets. Money is transferred from the smaller communities to the major retailing centres such as Bendigo, and that impacts adversely on smaller communities. That situation can be multiplied as one extends the network out of Bendigo. Many people from farming communities take the opportunity to spend a day shopping in Bendigo because of the strong retail presence of the supermarkets.

Although one cannot criticise people for wanting to save money, the competitive environment must be balanced to reverse the adverse impact on small businesses that try to eke out a living. Even in the Bendigo area the hotel industry is teetering at the brink. Mums and dads are the prime owners and operators of the hotels, and many university students supplement their incomes by working in the industry.

Legislators must be conscious of the risks of introducing legislation that impacts on the viability of enterprises and their opportunities to earn a living. The recommendation of the previous reviews by both the all-party parliamentary Public Bodies Review Committee and the review headed by Haddon Storey — which addressed the issue of national competition policy on the liquor industry in Victoria — was that the 8 per cent rule should be abolished. The strong commitment of coalition members, who were prepared to look at the issue on a broader basis and balance the views of the major supermarkets with the views of business operators within the hospitality industry, led the former minister to reject the proposal to remove the 8 per cent. That led to a diversified and responsible attitude to the sale of alcohol.

I also put on record the problem of alcohol abuse and misuse. Governments have a responsibility to ensure that they do not provide continued access that can lead to greater abuse and misuse.

Parliament should be conscious of the message it sends to the community regarding road safety if it allows packaged beer to be sold freely in milk bars, drive-in bottle shops, convenience stores and service stations. The industry should be aware that the selling of alcohol creates some difficulties in the community. Parliament should be conscious of the legislation it enacts and must ensure there are checks and balances that encourage responsible drinking and behaviour. It should not send the message that it condones the misuse and abuse of alcohol.

I am disappointed at the ambiguous nature of the report on the review of the 8 per cent limit on liquor licence

holdings. I was particularly concerned when the Minister for Small Business said she was considering alternatives to the 8 per cent rule because it gave the impression that the government may alter the rules applying to supermarkets accessing liquor licences. Approximately 100 Coles and Woolworths supermarkets in Victoria do not have liquor licences. I am concerned that any watering down of the proposal will lead to a compromise with further licences being granted, which may lead to more problems on our roads and in the social behaviour of some people in the community.

The National Party is unambiguous in its stance. It wants the 8 per cent rule retained. It does not want a watering down of the provision to lead to milk bars, convenience stores and service stations obtaining liquor licences, but at the same time it balances that view with the belief that people in the hotel and restaurant sectors should enjoy a viable, vibrant industry and be able to earn a living from the sale and serving of packaged liquor.

Hon. T. C. THEOPHANOUS (Jika Jika) — The opposition should be embarrassed by notice of motion 3 because the Minister for Small Business clearly said Labor government policy will be implemented.

Hon. Bill Forwood — She did not.

Hon. T. C. THEOPHANOUS — She said it would be implemented. The Liberal Party can try to put a twist on that — the government has come to expect members of the Liberal Party to twist the words of members of this place — but the minister was clear. She said government policy will be implemented. She referred to long-term options. Mr Forwood should have taken the trouble to read the report.

Hon. Bill Forwood — I read the report.

Hon. T. C. THEOPHANOUS — If Mr Forwood had read the report he would note that it refers to 'the following possible reform options'. That is after the recommendation that the 8 per cent rule should not be removed.

Hon. Bill Forwood — It then says 'until'.

Hon. T. C. THEOPHANOUS — Recommendation no. 1 states:

> The 8 per cent rule should not be removed until there is a mechanism in place to ensure diversity in the marketplace.

I do not know when such a mechanism would be available in the marketplace. I cannot envisage it occurring for many years to come. I do not know whether Mr Forwood can envisage a mechanism that will ensure diversity is retained in the marketplace, but it is clear the report will assist the government when it introduces legislation to close the loophole the previous government was not prepared to close.

Hon. B. C. Boardman — No, it doesn't.

Hon. T. C. THEOPHANOUS — Of course it does. Recommendation no. 2 states in part:

> The act be amended to require the Director of Liquor Licensing to reject an application for a general licence …

The opposition has been caught out. I accept what Mr Best said, that the former government rejected the recommendation of the Storey report, but once it became clear that there was a legal loophole that allowed the expansion of liquor licence holdings beyond the 8 per cent the former government was not prepared to close that loophole. It allowed the extension of holdings beyond the 8 per cent through the back door.

Members of the opposition are hypocrites. Mr Forwood says Coles and Woolworths have 40 per cent of the market share, but they got to that level because of a loophole the Kennett government was not prepared to close. The previous Minister for Small Business was a member of this chamber when time after time the then opposition sought an assurance from the minister that she would close the legal loophole. On no occasion did she ever say she was prepared to close that loophole. The only people who have said they will close the loophole are members of the Labor government.

Hon. Bill Forwood — You won't do it.

Hon. T. C. THEOPHANOUS — That is exactly what will happen. It will occur. I look forward to Mr Forwood eating his words and apologising to the government when it occurs.

The impediment the review points out is that the objections of the National Competition Council must be overcome. Even though there was no objection from the council regarding the Audit Act, the then government rushed off to introduce competition by amending that act. But in this case the council has raised an objection, which has to be dealt with, and the review proposes a way of dealing with the objection by allowing the 8 per cent to stay. That is why the government has accepted the recommendations of the review. It makes it clear that the 8 per cent rule ought to stay.

It is also the case that the industry has welcomed the way the government has dealt with the issue and has sought to ensure that the National Competition Council objections do not lead to the removal of the 8 per cent limit.

Indeed, the minister has been congratulated for standing up for small business.

Hon. Bill Forwood — By whom?

Hon. T. C. THEOPHANOUS — Peter Wilkinson, for a start.

Hon. Bill Forwood — Read the rest of what he said.

Hon. T. C. THEOPHANOUS — I am happy to read what he says:

> We know that Minister Thomson is under enormous pressure from the National Competition Council … and to her credit, she has ensured small business a fair hearing.

That is what he said, Mr Forwood.

Hon. Bill Forwood — Read the next bit.

Hon. T. C. THEOPHANOUS — The motion before the house is a cheap trick on your part, because you well know that the previous government was going down the track of selling small business down the line in relation to this issue, via the back door, and by allowing the legal loophole to remain you were never going to do anything about it. You made that clear in the house on countless occasions.

Debate interrupted pursuant to sessional orders.

Sitting suspended 1.02 p.m. until 2.03 p.m.

ABSENCE OF MINISTER

The PRESIDENT — Order! I advise that the Minister for Small Business is absent from the house due to illness.

QUESTIONS WITHOUT NOTICE

Industrial relations: task force

Hon. M. A. BIRRELL (East Yarra) — I refer the Minister for Industrial Relations to the economic impact study that the minister has now promised into the cost of the proposals made yesterday by her industrial relations task force. Will the minister promise to publish the report of the economic impact study and allow public comment on it before reaching conclusions on the task force's controversial recommendations?

Hon. M. M. GOULD (Minister for Industrial Relations) — I do not believe the recommendations of the industrial relations task force are controversial at all. The government will undertake an economic impact study on the recommendations that the task force has put to it. The economic impact statement will look at the employment and economic costs of the recommendations as set out. The government will make an assessment on those recommendations after receiving that statement and will respond to the recommendations once they have been received.

Electricity: supply

Hon. E. C. CARBINES (Geelong) — In contrast to the former government, which displayed little or no interest in the reliability of electricity supply in favour of grand privatisation, will the Minister for Energy and Resources outline to the house what the Bracks government has done to improve the security and reliability of supply following power shortages earlier this year?

Hon. C. C. BROAD (Minister for Energy and Resources) — Barely three months after assuming office the Bracks government was confronted with interruptions to supply and restrictions brought about by — —

Honourable members interjecting.

The PRESIDENT — Order! The house has not got off to a good start. I suggest the house allow the minister to be heard in silence.

Hon. C. C. BROAD — The interruptions were brought about by, as is well known to members of this place, hot weather in Victoria, South Australia and New South Wales, mechanical breakdowns in power generators, and industrial action which predated the election.

Honourable members interjecting.

The PRESIDENT — Order! Question time will be assisted if once the question is asked the minister is allowed to respond so that all honourable members can hear her answer.

Hon. C. C. BROAD — In the wake of that event the government appointed a task force, which I chaired, to carry out a thorough review of those events. The task force examined not only what can be done to better manage any future electricity shortages, but also

Victoria's future electricity demands and how they can be best met. The outcomes of the task force review are contained in a new report released a short time ago by the Premier.

The previous coalition government abrogated its responsibilities and did little to ensure, as part of its privatisation program and the establishment of a national market, that electricity was treated as an essential service following privatisation. The package of measures contained in the review is aimed at giving Victoria a more secure and reliable electricity supply system. Victoria has to face the reality that it is part of the national electricity market and that the government does not have sole jurisdiction over the legal and regulatory arrangements that apply in that market.

However, the existing national structures need substantial improvement to ensure they focus more on reliability, give more recognition to government and community concerns, and place greater duties of disclosure and accountability on all participants in that market. To that end, Victoria will seek to define with other states and territories an appropriate ongoing role for governments, and to ensure that the national electricity code clearly outlines the roles and responsibilities of all market participants.

Other key actions include meeting the state's short-term peak demands, ensuring there are sufficient incentives in the market to provide ongoing, timely and efficient investment in facilities to meet average growth in demand, and making arrangements to better inform the community about potential shortfalls in supply.

The most immediate issue facing Victoria is its ability to meet extreme peaks in demand. It is important to point out that electricity load in Victoria increases by around 15 per cent for only 1 per cent of the time in the year, and this is almost entirely due to airconditioning.

That situation was clear to the previous government. It is surprising it took no action whatsoever to do anything about it. As a result of the work over the past few months the task force has established that the most efficient and effective means of meeting those extremes is through demand-side responses such as the voluntary reduction of load for commercial gain, which the government believes there is a great deal of scope for the market to engage in.

Today together with the Premier I launched the first in a series of television and print advertisements developed by the Sustainable Energy Authority to encourage more efficient use of electricity. Unlike the previous government, the government will implement those recommendations as a matter of the highest priority in the interests of all Victorians.

Answer ordered to be considered next day on motion of Hon. PHILIP DAVIS (Gippsland).

Industrial relations: task force

Hon. M. A. BIRRELL (East Yarra) — I refer the Minister for Industrial Relations to the economic impact study that the minister is planning to commission prior to the recommendations of her task force which she has said will not be made public before decisions are made. Will the consultant who does the economic impact study be chosen following a public tender process or will the minister appoint another pro-Labor mate to do the job?

Hon. M. M. GOULD (Minister for Industrial Relations) — The tender has already gone out. It is being administered through Industrial Relations Victoria.

Industrial relations: task force

Hon. D. G. HADDEN (Ballarat) — I refer the Minister for Industrial Relations to research commissioned by the independent industrial relations task force entitled 'Earnings, employment benefits and industrial coverage in Victoria', and ask what the research revealed about Victorian workers with no award protection who are covered only by schedule 1A of the Workplace Relations Act.

Hon. M. M. GOULD (Minister for Industrial Relations) — The research commissioned by the independent task force contained in the Australian Council for Industrial Relations Research and Training report entitled 'Earnings, Employment Benefits and Industrial Coverage in Victoria' was critical. The data for the research was collected from a survey of 900 randomly selected employers across the state. The survey had the support of the Victorian Employers Chamber of Commerce and Industry (VECCI) and the Australian Industry Group (AIG), which encouraged their membership to participate in the research.

Despite the previous government's dismantling of the state industrial relations system and abolishing of state awards, no research whatsoever has been conducted by it or by the federal Minister for Employment, Workplace Relations and Small Business, Peter Reith, into what happened to those Victorian workers when the changes took place. No figures have been available for the past eight years for the number of those Victorian workers covered by schedule 1A who have remained without award protection. The Liberals in

Victoria and Mr Reith were simply not interested in what happened to those ordinary Victorians. They did not want to know and did not care about what happened to them, and they were not interested in how their policies impacted on them.

The research that has been commissioned by the task force with the support of VECCI and AIG has come up with some hard facts. Approximately 561 000 employees have no award protection in Victoria; they have only the minimum conditions of employment covered under schedule 1A of the Workplace Relations Act. Taking into account what the Australian Bureau of Statistics does with its statistics, 200 000 of those 560 000-odd Victorians would be senior managers or professional people who do not normally require employment protection, leaving a total of 360 000 Victorians who have been left on their own with no award protection!

The research shows that four major industries are covered by those 360 000 workers: 23 per cent are employed in property and business services, usually as clerical workers, although no research has been available before today on what has happened to them; 13 per cent are employed in the construction area, mainly in small residential construction; 12 per cent are employed in retail as small business workers and shop assistants; and 14 per cent are employed in the agricultural area, mainly as farmhands. I am sure the last category would be of interest to the National Party, because those people work in their electorates. The report expressed particular concern about the fact that workers in the non-metropolitan area — that is, regional and rural workers — tend to be the lowest paid workers in Victoria. Thirty per cent — —

Hon. K. M. Smith — On a point of order, Mr President, the minister is not answering the question; she is debating it. I ask you to bring her back to answering the question.

Hon. M. M. GOULD — That is not a point of order.

The PRESIDENT — Order! As I have said in the house before, it is extraordinarily difficult to ascertain whether a member is answering a question or debating an issue, and the house has always taken a liberal attitude to that. I do not uphold the point of order, but I am sure the minister is coming to the end of her answer.

Hon. M. M. GOULD — The research was critical. It showed that 30 per cent of non-metropolitan workers earn less than $12 per hour. The house is aware that the government is concerned about how it can best address the areas of disadvantage to workers, and it will be looking in particular for support from the National Party to ensure that, in assessing its views on the recommendations, it looks after all Victorians, especially those in the regional and rural areas.

Snowy River

Hon. W. R. BAXTER (North Eastern) — I refer the Minister for Energy and Resources in her capacity as lead minister in the negotiations with New South Wales on the Snowy River to the government's commitment to return 28 per cent flows to the Snowy River — a commitment that underpins the government's very existence. Is the minister aware of a proposal by the New South Wales government to commission a study to:

> … assess the total water resource that can be economically recovered over a relatively long period (say 25 years).

Does that time frame not put paid to the government's undertaking to restore flows to the Snowy within the life of this Parliament and further demonstrate that the Victorian government is not being taken seriously by the New South Wales minister, Mr Della Bosca, and the New South Wales Labor government?

Hon. C. C. BROAD (Minister for Energy and Resources) — The honourable member referred to the important commitment made by the Bracks government to the Victorian people at the last election to restore 28 per cent of average natural flows to the Snowy River. I have been charged with the responsibility for negotiating with the commonwealth and New South Wales governments on that commitment.

I do not accept the assertion of the honourable member that the many studies and investigations, some of which have been completed and some of which are still under way, in Victoria, New South Wales and with the commonwealth on available water savings and possible financing arrangements for the private and public sectors that may contribute to achieving that commitment, put paid in any shape or form to the government's commitment. I expect that before much longer it will be possible for all three governments to indicate what it has been possible to achieve through those negotiations.

Better Pools program

Hon. KAYE DARVENIZA (Melbourne West) — Will the Minister for Sport and Recreation inform the house how the government is ensuring that all

Victorians are benefiting from the government's commitment to better pools for all Victorians?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — The Honourable Bill Forwood may be interested in my answer because he has recently raised issues about sports funding. The Better Pools aquatic funding program was developed in response to the volume of aquatic-based project applications received by Sport and Recreation Victoria through direct applications to the Community Support Fund and specific issues identified at the 1999 Sport and Recreation Victoria rural pools conference.

I will reinforce the objectives of the Better Pools program for the benefit of the opposition. It aims to encourage a planned approach to the development of aquatic leisure facilities across Victoria; to develop or redevelop aquatic facilities to increase the range of and access to aquatic leisure facilities; and to upgrade existing facilities to comply with occupational health and safety and other legislative requirements.

The funds for the program were allocated from the Community Support Fund and administered by Sport and Recreation Victoria. In July almost $11 million was allocated to projects throughout Victoria over two financial years. A total of 23 local government authorities were funded. In some instances, such as the Mildura Rural City Council and the Murrindindi Shire Council, a number of pools were upgraded.

Allocations to the metropolitan area included $1 million to the City of Yarra to upgrade its pool infrastructure and $1.5 million to the City of Knox to upgrade the Knox Leisure Works.

A highlight of the funding, which may be appreciated by National Party members, was to provide assistance to aquatic centres in three significant regional centres. That included $2.5 million to Wangaratta and Warrnambool councils and $1.8 million to the Rural City of Swan Hill. Those developments will give residents access to indoor aquatic centres, enhance their involvement in learn-to-swim and water-safety programs, fitness activities, family recreation and competition swimming opportunities on a year-round basis.

Geological Survey: appointment

Hon. PHILIP DAVIS (Gippsland) — Further to the issue I raised during the adjournment debate last night concerning the targeted retrenchment of the manager of Geological Survey in the Minerals and Petroleum Division of the Department of Natural Resources and Environment, can the Minister for Energy and Resources confirm that she received representations from the Victorian Chamber of Mines which, she would have the house believe, were ignored?

However, the minister did address an email that was released to me under freedom of information. The email, dated 11 January, was from the relevant officer of the department to the acting secretary of the Department of Natural Resources and Environment seeking direction as a result of advice that:

> … it is in the minister's office.

Will the minister advise how that can be consistent with her response on 8 December last, which states:

> … it is not my intention to intervene to change decisions of that nature by the department.

Will the minister advise who is not telling the truth?

Hon. C. C. BROAD (Minister for Energy and Resources) — The honourable member has referred to Mr Tom Dickson being targeted. If he was targeted, as I have previously told the house, he was targeted under the previous government and certainly the advice made available to me on taking responsibility for the portfolio from the then head of department, Mr Michael Taylor, was that the decision not to renew Mr Dickson's contract had been made by the previous government.

I shall correct another reference in the honourable member's question. As I have previously told the house, I did not ignore the representations by the Victorian Chamber of Mines on this matter. Given that Mr Dickson and other such contractors are employed by the head of the department and not by the minister, I did what I considered to be the appropriate thing. I raised the matter with the then head of the department, who advised me what was involved. As I have previously said, I accepted his explanation.

In relation to the emails the honourable member has obtained under freedom of information relating to certain matters to do with the minister, I have previously told the house that the emails between those officers were ill informed.

Industrial relations: task force

Hon. JENNY MIKAKOS (Jika Jika) — Further to the earlier answer by the Minister for Industrial Relations about research conducted by the industrial relations task force, what does the research show about the level of wages and conditions of Victorian employees compared with other states and nationally?

Hon. M. M. GOULD (Minister for Industrial Relations) — I am concerned about the findings following the research conducted by the industrial relations task force, which compare the proportion of the Victorian work force on low wages with employees in New South Wales and the rest of Australia.

In Victoria the number of people who earnt less than $12 an hour and who are therefore employed on low wages totals 24 per cent of the work force. That compares with 19 per cent for New South Wales and 21 per cent throughout Australia. The study shows that 10 per cent of Victorians earn less than $10 an hour. Eight per cent of New South Wales workers and 9 per cent throughout Australia earn that amount. Unfortunately, Victorian workers are not only disadvantaged in the wages they receive but also in their employment conditions.

Yesterday the Leader of the Opposition was reported as saying he was not enthusiastic about giving the unions another leg up, to use his expression, when it came to considering industrial relations reforms. The Leader of the Opposition's comments ignore the fact that the research has found that most of the 360 000 workers I was referring to are not covered by unions. They do not have the protection of unions.

Honourable members interjecting.

Hon. M. M. GOULD — They do not have the protection of federal awards as do the other two-thirds of the Victorian working population. This is not about looking after the unions. This government is concerned about looking after the Victorian workers who are on such low rates of pay.

I urge members of both the Liberal and National parties not to play a negative political role and instead suggest that we work together to ensure that Victorian workers are looked after and that we actually grow the whole of the state for all Victorians, not just a select few.

World Economic Forum

Hon. B. C. BOARDMAN (Chelsea) — Can the Minister for Youth Affairs detail to the house what action he has taken to protect Victoria's youth from being exploited and misled by the S11 group into participating in a potentially violent and confrontationist demonstration at the upcoming World Economic Forum?

Hon. J. M. MADDEN (Minister for Youth Affairs) — I thank the honourable member for his question. Although the member of the opposition likes to use the term 'youth' generically, he should use it more specifically. That was one of the difficulties when the opposition considered youth as youth.

Honourable members interjecting.

Hon. J. M. MADDEN — Members of the opposition use it as a generic term, not appreciating that the term 'youth' can refer to anybody between 15 and 25 years of age. Of course, there will be different layers based on what those people do and their responsibilities and liberties. As my ministerial colleagues in the other place have mentioned on a number of occasions, the government expects young people to be at school, and that is where they should be if they are of school age.

If they are in a different age group or from different backgrounds they have many opportunities to express themselves in a number of ways. When honourable members opposite next use the term 'youth', they might be more specific about the age groups and the cultural diversity. It is not a homogenised group. The opposition should appreciate that and if it wants to refer to a particular demographic within youth it should be specific.

Hon. D. McL. Davis — On a point of order, Mr President, that answer was not in any way responsive to the question. The question was very specifically about the World Economic Forum and what the minister has done. The minister tried to debate the definition of youth.

The PRESIDENT — Order! I find that the answer was not responsive to the question. Whether the minister wants to add anything to what he said is a matter for the minister.

Hon. J. M. MADDEN — I believe I responded to that matter and to other comments made by my ministerial colleagues and in doing so I believe I have responded to the question.

An Opposition Member — Giraffes have small brains.

Hon. G. D. Romanes — On a point of order, I just heard — —

Honourable members interjecting.

The PRESIDENT — Order! The minister answered the question as far as he was prepared to do so. I suggest he stop now. The Honourable Glenyys Romanes was called to ask a question but she has a point of order.

Hon. G. D. Romanes — On a point of order, Mr President, I have just heard the Opposition Whip, the Honourable Ken Smith, make a reference to the Minister for Youth Affairs, the Honourable Justin Madden, along the lines of 'Giraffes have small brains'. I consider that to be an affront to the minister and I ask the Honourable Ken Smith to withdraw that remark.

The PRESIDENT — Order! The rules of the house are quite clear in relation to those sorts of remarks. When the member is in the chamber it is up to the member to take the objection.

Honourable members interjecting.

The PRESIDENT — Order! This is not a new issue.

Honourable members interjecting.

The PRESIDENT — Order! If the minister had taken objection to it I would have asked for the comment to be withdrawn. It is his call.

Hon. T. C. Theophanous — He might not have heard it.

Hon. C. C. Broad — So reflections on physical appearance are now allowed in this chamber?

The PRESIDENT — Order! No, they are not. The minister is missing the point: if the Minister for Youth Affairs did not hear what was said or was absent from the chamber, another member can take the objection. If the point the Honourable Glenyys Romanes is making, is that the minister did not hear, I am happy to entertain the point of order. The rules are quite clear.

Hon. J. M. Madden — On the point of order, Mr President, I heard only part of that but if that was what was said I do take exception to it.

Hon. Bill Forwood — On the point of order, Mr President, it was not Mr Smith, it was I who said it, and I am happy to withdraw.

Hon. Kaye Darveniza — On a point of order, Mr President, I just saw Mr Ken Smith make a very offensive gesture across the room. Not only does the opposition make a verbal affront to our ministers but Mr Smith made a very offensive gesture across the chamber and I take exception to that.

Honourable members interjecting.

The PRESIDENT — Order! All I can do is note the comments of the member. There is no basis on which I can ask for an alleged gesture to be withdrawn.

Students: sport participation

Hon. G. D. ROMANES (Melbourne) — In light of the 1993 Moneghetti report, which recommended minimum levels of participation in school sport, will the Minister for Sport and Recreation inform the house of what steps the government is taking to meet the participation targets in Victorian schools?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I thank the honourable member for her question. As a curriculum-based activity, sport in schools is the province of the Minister for Education. However, Sport and Recreation Victoria works in partnership with the Department of Education, Employment and Training to achieve the government's policy initiatives on sport in schools. The two agencies have recently concluded a three-year memorandum of understanding to establish closer school and community links. The partnership has developed a resource booklet for schools which will assist them to improve the quality of sport in schools through closer links with local sporting clubs. My portfolio will continue to promote closer links between schools, local government and community organisations.

In 1999–2000 over $150 000 was directed through state sporting associations to a range of sports initiatives aimed at encouraging school-age children to participate in sport. The sports included indoor cricket, gymnastics, golf, lacrosse, handball, athletics, callisthenics, rowing, skiing, and yachting.

Other relevant Sport and Recreation Victoria initiatives include support for the employment of over 30 sport development officers in state sporting associations to conduct school clinics and teacher in-servicing, and to stage sporting events to promote the benefits of sport to school children.

Sport and Recreation Victoria also supports the ongoing development of the Active Australia Schools Network, a network of schools committed to supporting and promoting sport and physical activity.

The government is looking forward to the conclusion of a review into public education entitled 'Public education — the next generation', which has received hundreds of submissions. One of the most appreciated elements of the submissions is that none has sought any reduction in the level of sport or physical education in schools. The government therefore remains committed to increasing sport, physical activity and physical education in schools to the level recommended in the 1993 Moneghetti report. I will continue to work in

partnership with the Minister for Education to achieve that.

CONSTITUTION (AMENDMENT) BILL

Second reading

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

That this bill be now read a second time.

Mr President, as honourable members may recall, the Constitution (Reform) Bill was introduced into the Legislative Assembly last sittings. The primary objectives of that bill were to:

reform this house;

end the ability of this house to block supply; and

establish a fixed four-year term of Parliament.

As members may also recall, that bill lay over to allow for public comment and consultation.

As a result of receiving that comment on the bill and following consultation with a number of persons, including the Independent members of the other house and the non-government parties, the government has decided to alter some of the proposals in the reform bill and to replace that bill with two bills — the bill before the house and the Constitution (Proportional Representation) Bill.

The present bill deals with three issues of parliamentary reform:

the term of Parliament;

the duration of the Legislative Council;

ending the ability of the Legislative Council to block supply.

Term of Parliament

The provisions in this bill concerning the term of Parliament are substantially the same as those in the reform bill. As members will be aware, the current position is that the Assembly expires four years after its first sitting day. However, the Governor is empowered to dissolve the Assembly in certain circumstances:

three years have expired;

a supply bill has been rejected;

a bill of special importance under section 66 is twice rejected by this house; or

a vote of no confidence has been passed by the Assembly.

The bill before the house, for the reasons detailed in the second-reading speech of the reform bill, will ensure that the following principle is put in place — a Parliament elected for four years will serve for four years unless the government has lost the confidence of the lower house.

This will be achieved by providing that the only ground upon which His Excellency can dissolve the Assembly is if a resolution is passed by the Assembly expressing no confidence in the Premier and ministers. In the absence of such a resolution, the Parliament will run for its full term of four years.

This bill, like the reform bill, also ensures that the four-year term commences not from the first sitting day of Parliament but from the date of the general election. As a result of these measures the gap between general elections will always be, unless there is a vote of no confidence, four years plus the election period — which will be between 25 and 58 days.

These provisions will operate from the next Parliament.

Duration of the Legislative Council

As members will be aware, currently the term of members of this house is equal to two terms of the Legislative Assembly. This bill will, however, reduce the term of legislative councillors to a term equal to the term of the Legislative Assembly.

Members will note that these provisions will operate from the next election and, for that purpose, the terms of all members of the Legislative Council will cease when the current Assembly expires or is dissolved.

As members will appreciate, this bill is designed to operate in conjunction with the Constitution (Proportional Representation) Bill — which is currently before the other house. Should the passage of that bill be delayed whilst this bill is passed, the result will be, from the next election, that each of the 22 provinces is to return two members. As The Constitution Act Amendment Act provisions are not applicable to such elections, provisions to enable such elections to be conducted are included in the bill. These provisions are based on provisions in the Local Government Act.

Supply

Mr President, the reform bill introduced provisions to end the ability of the Legislative Council to block supply by providing that annual appropriation bills are to be presented for assent once passed by the Legislative Assembly. Following concerns that this will deprive this house of its ability, as a house of review, to debate and comment on supply bills, the bill before the house has adopted the approach adopted in New South Wales and in the United Kingdom. This approach allows the Legislative Council to consider and debate annual appropriation bills, but provides that should the Council reject or fail to pass such a bill within one month of it being passed by the Assembly, the annual appropriation bill must be presented for assent.

Mr President, the issues in this bill represent part of a package of major constitutional reforms — reforms which have been long sought by the people of Victoria and which deserve speedy passage through this Parliament.

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 later this day.

The bill has been before Parliament for several months now. It has been subject to extensive debate between the parties and within the community, and both opposition parties have clearly outlined their decisions in the Assembly and in the media. There can be no credible argument that there has been insufficient time for any members of the house to understand the intent and details of the bill or the Liberal Party's position on the bill. The Liberal Party has even gone so far as to produce a leaflet stating its position. It is therefore impossible to believe that the bill needs to be laid over for the opposition to form its view.

Numerous newspapers articles have been published. Mr Birrell has been quoted in the Ballarat *Courier*, there have been articles in the Warrnambool *Standard* and a number of comments have been made over the airways. There have been articles in the *Border-Mail* — Mr Baxter has been very busy on this piece of legislation — and articles in the *Shepparton News*. There have been articles in the local Chelsea newspaper.

The opposition's argument for delay in debating the bill therefore reflects convention but ignores recent precedents. On at least two occasions when in government the Honourable Roger Hallam used the coalition's parliamentary majority to bring on debates this way — back in 1993 and 1997 on the Annual Leave Payments (Amendment) Bill and the Audit (Amendment) Bill — so it was interesting that he denied leave for the second reading of the bill yesterday. The government believes the opposition's actions on this bill are not intended to delay the bill; it is doing so only because it is unwilling to debate the reduction of the period of the terms of the upper house members. I therefore urge honourable members to support the adjournment of the bill until later this day.

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

> That the words 'later this day' be omitted with the view of inserting in place thereof the expression 'Wednesday, 20 September 2000'.

In moving that amendment I make it clear that the opposition seeks the normal two-week adjournment for the bill. In practice that would mean the opposition would be debating the bill in the next sitting week of Parliament, which will follow the break that has been organised for all Parliaments around the Olympic Games. In other words, in terms of sitting days Parliament would be debating the bill on the next sitting day.

The opposition makes that suggestion on the basis of the long-established practice of Liberal, Labor and coalition governments that major legislation is commonly adjourned for two weeks. Indeed, not only commonly adjourned for two weeks in the Legislative Council but commonly adjourned for two weeks in the Legislative Assembly. Surprise, surprise, these bills in all their variations have been adjourned for two weeks in the Legislative Assembly. I stress 'in all their variations', because there has been something of a moving feast in terms of the number of bills the government introduced. From memory — I may be wrong — it introduced one bill and then did not bring it on for debate in the Legislative Assembly; then it introduced another bill that was radically different from the first bill and also did not bring it on for debate. It then introduced two bills that were similar to the second bill but nevertheless had some changes, and then after a period of at least two weeks brought them on for debate in the Legislative Assembly.

This bill has been passed through the Legislative Assembly, but its partner bill is still to be debated by the Legislative Assembly. This is an appalling example

of the hypocrisy of the government's stance, because that bill is being guillotined through the Legislative Assembly, a procedure that is possible only through the ALP's use of its numbers and two of the Independents.

Hon. C. C. Broad interjected.

Hon. M. A. BIRRELL — As to Minister Broad's customary inaccurate interjection, no, our side did not agree to it. How then could there have been a vote on it, Minister, which there was? And there was disagreement because the Liberal Party believed there should have been a longer period to debate this matter in the Legislative Assembly.

It is without precedent in the history of the Legislative Council since the Second World War — if there is a precedent I am happy to hear of it — that a bill to amend of the constitution of the state of Victoria will be debated in the Legislative Council on the day after it was introduced. I cannot think of any occasion when a constitutional alteration sought by the government of the day has been rammed through on the day after it was introduced. The reality is that there is commonly by agreement a two-week adjournment.

Hon. M. M. Gould interjected.

Hon. M. A. BIRRELL — I did not suggest there is a guillotine. The practice of this house, regardless of who controls the numbers, is that there is agreement that there are adjournments when they are sought. Otherwise we would have the same codified rules of practice for running this house as the Legislative Assembly has, and thank God we do not have them in this house. When something as significant as an alteration of the state constitution is being dealt with and the opposition — in this case both opposition parties — seeks an adjournment of debate for two weeks, it relies on the government of the day agreeing to such an adjournment.

It is even more important with a bill that amends the constitution than with other significant bills. My colleague the Leader of the National Party said last week that one should never take for granted that a bill introduced in the house on one day can simply be passed through the house on that day. On occasions it may be done by agreement because the bill is minor or trivial or, as was commonly the case when I was last the Leader of the Opposition, because the government of the day said the bill was urgent and there was some pressing reason of human safety or business conduct that necessitated proposed legislation being quickly passed. On all occasions we facilitated the passage of the bill. We have passed bills through both houses of Parliament within 12 hours on some occasions because party politics means nothing if protection of the public interest is at stake.

All that is done in the spirit of recognising that if a bill is not urgent for reasons of public safety or commercial consideration, if it is controversial — which this bill is — or if it does something of major import, such as amending the state constitution, there will be a two-week adjournment. That is logical.

I expect Mr Theophanous is a person who will speak against the motion. In anticipation I remind him of his strong support for the adjournment of bills, in particular I urge him to read *Hansard* of 3 December 1997, and I also ask his colleagues to do so. If Mr Theophanous is upset about adjourning bills for two weeks it flies in the face of his comments on that day and indeed his comments peppered throughout his surprisingly long time in this place.

Hon. T. C. Theophanous interjected.

Hon. M. A. BIRRELL — Mr Theophanous, I do not have anything to admire of you other than the fact that you are a survivor. Mr Theophanous on 3 December 1997, as recorded at page 878 of *Hansard*, moved that the bill before the house be adjourned and said:

> The debate should be adjourned until 1 September 1998.

He sought an adjournment of about nine months.

Hon. T. C. Theophanous — And don't you wish you had done it now!

Hon. M. A. BIRRELL — He had his reasons for doing so. That is the mark of the difference in the politics of the debate at the time. I hope neither he nor anyone else suggests that it is not the right of the opposition parties to adjourn bills, that there is some kind of inherent right of the government to bring a bill on for debate within 24 hours of its being introduced into this house, that there is some capacity for the government morally to demand that a bill be debated immediately. If there is any practice or precedent it is that a two-week adjournment is normal when someone in the chamber, usually because it is the conclusion of his or her political party but not necessarily so, says, 'I need more time'. Mr Theophanous is recorded at page 880 of *Hansard* of 3 December 1997 as saying:

> The adjournment period that is being proposed between the delivery of the minister's second-reading speech and the second-reading debate is an insult to all those people. It allows inadequate time to consider the issues and debate the

matter thoroughly. For those reasons the opposition believes it ought to be delayed.

That was the view of the Labor Party arguing for adjournments when in opposition, yet it seeks to argue that the Liberal Party has no similar right to argue for adjournments when in opposition.

The bill amends the state constitution. It seeks to permanently alter the constitutional and electoral structure of the state and to permanently alter the parliamentary system itself. There can be no more important subject for debate than altering the structure of the Parliament in some way or another, be it the lower house or the upper house, and there can be no more important issue than governments altering the electoral system, which the bill seeks to do. It is not a matter of whether the opposition agrees or disagrees with the bill, it is a matter of whether members of the opposition should be allowed to have the normal two weeks.

I look forward to the extra public scrutiny of the bill. Far from what the Labor Party suggests — that the opposition members do not want to debate the bill — we are looking forward to debating it. We are particularly looking forward to more and more Victorians knowing what is in the bill, because it has been a deliberate tactic of the government not to consult on the proposed legislation, not to do what it says it will do on all key issues: to hold regional forums, put out discussion papers, pamphlets, web sites and so on. None of that has been available for this. We have not seen a pamphlet, a web site flickering on our screens about what the government wants to do, a hot line or footy personalities promoting this one! The government said, 'No, we would like to keep this one pretty quiet thanks, because this is a bill for the true believers'.

We are more than happy to have the public know what is in the bill. We want every member of the public to know what Labor is up to, to know about every aspect of the legislation, every single aspect of it. As more and more people see it more and more people will know what it is about — it is a grab for power. Personally, I was absolutely delighted to hear of the government's intention to persist with this issue. I look forward to it.

Over the coming weeks members of the opposition will continue to do what they have been doing over the past few weeks — that is, making sure people get to know the bill. Although the government does not want to consult on it, we do. We look forward to the brief, normal adjournment to allow further public scrutiny of Labor's plans.

Hon. C. C. Broad interjected.

Hon. M. A. BIRRELL — That was another unhelpful interjection from the minister. If you are worried about the Olympic Games, Minister, the opposition is happy for you to extend the time further. If the government is worried that the media will not be able to focus on the issue during the Olympic Games, we are happy to give it more time. Every person who understands what the government is up to changes their attitude towards the government because people do not like a naked grab for power. They do not like an attempt by the government to try to stack the books.

I can understand why the government does not want the public to be consulted via the normal consultation process. I can understand why it does not want the media to report this issue day after day, but opposition members will facilitate that. We have no doubt about the public being involved. People can learn about the true Labor motive. Over the next few weeks opposition members actively hope the public will participate and take up the minister's suggestion. If they need more time to participate we are happy to support the government's adjourning the issue for an even longer time.

Hon. R. M. HALLAM (Western) — I support the standard procedures and protocols in the chamber, and I will outline why the National Party will insist, so far as it can, on having the bill subjected to the standard practice of two weeks layover in the chamber before being debated.

At the outset I point out that the circumstances today are precisely why I chose to put the government on notice. Although the opposition parties were prepared to accommodate the government's business program, that was not to be taken as an indication that on every occasion it would simply roll over and allow issues of importance to be brought into the house and debated immediately.

Hon. T. C. Theophanous interjected.

Hon. R. M. HALLAM — I heard the aside from the Honourable Theo Theophanous that the bill is not being brought in one day with the government expecting it to be debated the next day. That is interesting, because if I had not refused leave yesterday that is precisely what would have happened. The government is saying to the Legislative Council, 'We would like to bring the bill before the chamber and debate it the same day'. That is what was sought. The government might try to articulate it in a better light but it sought to have the bill brought before the chamber and debated forthwith.

Hon. T. C. Theophanous — That is rubbish.

Hon. R. M. HALLAM — It is not rubbish; it is a matter of fact. If leave had not been refused the inference was that the debate would have proceeded immediately. That is not to say that the agreement that has prevailed in the past will not apply in the future. Where bills come before the house for a variety of reasons the government can expect agreement between the parties on how the business of the house shall be managed. However, this is probably the most important bill to come before the house in my time as a member of this place. The bill seeks to change the rules by which legislation shall be promulgated. It seeks to change the way the Victorian community shall be represented in this place. It is an infernal cheek for the government to say the house should debate the bill immediately.

I have put on the record again and again my belief that the government has treated this place with contempt. It says this place should be a house of review and the former government was criticised because it was argued that this house had not been allowed to assume its proper role. The criticism made about the Kennett administration was that the chamber had become a rubber stamp. Now, when apparently under the government's rules the house has a chance to become a place of review, the government wants to nobble it! You cannot have your cake and eat it too!

Hon. Kaye Darveniza interjected.

Hon. R. M. HALLAM — The honourable member is not in her place, but I will answer her interjection. If the house is meant to be a place of review it should be treated with some respect. The basis of my criticism a few days ago about introductory speeches demonstrated again that the government has given no thought to the procedures of the house. The bill is a classic example. Apparently, under the rules introduced by the Labor government, the house is expected to debate a bill that will change the state constitution; yet it cannot even give this house the courtesy of having an appropriate introductory speech. I shall quote from the second-reading speech the minister read to the house a few moments ago:

> The bill before the house —

It must be remembered that the bill before the house will change the constitution of the state.

Hon. T. C. Theophanous — Like the hundreds of times you did it when you changed the constitution at a moment's notice.

Hon. R. M. HALLAM — That is not true. The second-reading speech states:

> The bill before the house, for the reasons detailed in the second-reading speech of the reform bill, will ensure that the following principle is put in place …

It states that it is for the reasons detailed in the second-reading speech of the reform bill. The reform bill did not reach this chamber! The speech is based on a concept delivered in another chamber, and this house is expected to debate it on a moment's notice. It is a classic example of why honourable members opposite should not accommodate the government on every occasion. It cannot even get the rules right in respect of the introduction of bills. It is a classic example of why we should not be railroaded into something that suits the government's purpose.

The opposition parties require the standard process of a two-week layover. That is exactly what has been required in the past and exactly what has been honoured again and again in the chamber. It does the Leader of the Government no good to cite examples from back in the dim, Dark Ages.

Hon. Kaye Darveniza interjected.

Hon. R. M. HALLAM — For the record, Ms Darveniza, those bills did not change the constitution. This bill will fundamentally change the constitution. Why does the government want to rush the debate through? Is it afraid of the reaction of the community?

Hon. Kaye Darveniza interjected.

Hon. R. M. HALLAM — I heard the honourable member ad nauseam on the ABC yesterday talking about a mandate and the right for the bill to be passed because the government took it to the Victorian community before the election. Let the point be made: the government did not take this bill to the Victorian community.

Hon. Kaye Darveniza interjected.

The PRESIDENT — Order! I suggest the honourable member return to her place if she wants to interject, and then that she does not interject.

Hon. R. M. HALLAM — The honourable member is fond of relying on the concept of a mandate. Let the record show that the Bracks government took nothing like this bill to the Victorian community in advance of the state election. If for no other reason than basic propriety, when a change to the constitution is envisaged it would be appropriate to provide reasonable

time for the Victorian community to understand exactly what the government is up to. During the two-week layover I will explain to my electorate precisely what the government is up to. I am not afraid of the debate. I would like to bring the debate on, but I want my community to understand exactly what the government is up to.

Hon. Kaye Darveniza — You've had it for months. Why didn't you go to the community months ago and — —

Hon. R. M. HALLAM — I want that inane interjection on the record because the bill has not been around for months. This is about the third version that the Bracks government has introduced to the house. It is a radically different proposal from the one that was first floated. For that reason, if for no other, the bill deserves to be taken back to the community so that the opposition parties have a chance to show it to their electorates. If ever a bill deserved to have the process of the two-week layover acknowledged, this bill surely must be it. I wholeheartedly support the standard traditions of the house.

Hon. N. B. Lucas — On a point of order, Mr President, I refer you to your previous ruling regarding a second-reading speech made in this house that did not cover the amendments carried in the other place. At the time you ruled that the second-reading speech should take account of the amendments that had been made in the other place and be updated accordingly.

The Leader of the National Party said that page 2 of the second-reading speech refers to the 'reform bill'. That reference is incorrect and inappropriate in two ways: firstly, there is no such bill before the house, so members are unable to examine the details of it; and secondly, and most importantly, the bill does not exist. The reform bill, as it was referred to, has been split into two bills and the bills now before this chamber and the other place have entirely different names.

Mr President, I ask you to rule that the minister's second-reading speech not be accepted by the house based on your previous ruling.

The PRESIDENT — Order! What happened in relation to the ruling I made on a previous occasion was that the second-reading speech given in the Legislative Assembly related to a bill that was subsequently amended in that chamber but the second-reading speech given in this chamber did not take account of those amendments. That is why I made the ruling I did. This is a different case.

It is a lack of courtesy to the chamber that it is presented with a speech that refers constantly to the 'reform bill', which this house has never seen. I again ask ministers to make sure that second-reading speeches introduced into this place are appropriate to the proceedings of this house and are not related to something that may or may not happen in another place.

Although I understand the point made by Mr Lucas, I do not uphold the point of order. I do not believe it requires the withdrawal of the second-reading speech.

Hon. T. C. THEOPHANOUS (Jika Jika) — It is amazing that the opposition is not prepared to debate this bill when the proposed legislation has been in the community for four months.

Hon. R. M. Hallam — That is not true.

Hon. T. C. THEOPHANOUS — The issues surrounding this legislation have been the subject of vigorous debate in the community. The government wants to have this debate because this issue was part of its election platform. It has a mandate to make these changes.

It is ridiculous that the Leader of the Liberal Party in this place accuses the government of a grab for power in the upper house when he controls 30 members out of a total of 44.

Honourable members interjecting.

Hon. T. C. THEOPHANOUS — I deliberately say 30 members because the house has not seen a single example of any so-called autonomy from members of the National Party, even though they say they are going it alone.

Honourable members interjecting.

The PRESIDENT — Order! I ask Mr Theophanous to direct his remarks through the Chair and then no-one else will get excited.

Hon. T. C. THEOPHANOUS — We have not seen any sign whatsoever of the National Party being prepared to take an independent stand on anything. The current situation in this house is 30 to 14! The group of 30 is accusing the group of 14 of making a naked grab for power! That is stretching the imagination even of people who are supposed to be intelligent such as Mr Birrell.

If members of the Liberal Party or the National Party were saying that they want two weeks to have a

community debate the government would be prepared to grant not just two weeks but more than two weeks, because if they wanted to have a community debate during which they would make up their minds about the reform of the upper house the government would be happy for them to go out and consider their position.

However, that is not the case. They have already made up their minds. The Liberal Party issued a press release stating that it would knock off all constitutional reform being put forward through these bills. The Liberal and National parties are not interested in four-year terms. They are happy to sit back and have a sleep on the backbench for eight years.

Hon. I. J. Cover interjected.

Hon. T. C. THEOPHANOUS — That is what you said. I am happy to submit myself to an election every four years. You clearly are not. Mr Cover, you do not want the people of Geelong to have the chance to kick you out.

Honourable members interjecting.

The PRESIDENT — Order! The requirement that honourable members make their remarks through the Chair is for a reason. It is to stop the finger pointing and glaring at individuals across the chamber. I suggest the honourable member glare at me.

Hon. T. C. THEOPHANOUS — There is an enormous amount of hypocrisy even on the question of precedents. The Leader of the Liberal Party referred to the debate on the Audit Bill in 1997. A similar event occurred on that occasion.

Hon. R. M. Hallam — That is not true.

Hon. T. C. THEOPHANOUS — Wait and you might be educated.

The Audit Bill was a significant piece of legislation. Some would argue that the changes made in the Audit Bill were the single most important factor that led to the downfall of the Kennett government. The amendments to Workcover and the Audit Bill were the two most significant changes resisted and condemned by the community.

Following the second-reading speech on the Audit Bill I moved that debate be adjourned. That is similar to what Mr Birrell did today. On that occasion the Honourable Rob Knowles moved that debate be adjourned until the next day of meeting. I moved an amendment to that motion suggesting that debate be adjourned until 1 September 1998.

A number of reasons were put to the house supporting that adjournment, but the most important was to give the Auditor-General the time to complete the performance audits he had commenced and to allow some time because the legislation was linked to National Competition Council policy.

The Auditor-General asked that that be looked at, but the previous government was not prepared to consider anything the Auditor-General put up. On that occasion the Honourable Rob Knowles, a former Minister for Health, said in answer to my attempt to change the words of the motion that the debate be adjourned to the next day of meeting — that is, that the debate occur the next day that the house met:

> This is an important bill that the house is competent to deal with on the next day of meeting. The subject matter of the bill has a long history. It has been subject to independent review and much debate. No events will occur in the foreseeable future that will alter the membership of the house.

That is probably pretty true then and now:

> Therefore, the members of this place are competent to debate the issues to which the bill gives rise. If the house, in its wisdom, chooses not to proceed with the bill as it is currently drafted, it has the ability to do so. If, on the other hand, and as the government advocates, the house accepts the arguments mounted in support of it, the bill should be passed and become law.

It was all right then to go forward with a debate on the audit legislation, which in the minds of many people was one of the most important pieces of legislation that had ever come before the house. It was okay to debate that because, in the words of the Honourable Rob Knowles, it had been the subject of review and much debate and no events would occur in the future to alter the membership of the house. Furthermore, the house was competent to deal with the issues.

Talk about hypocrisy! The Leader of the Opposition, looking increasingly like a man who is desperate to find anything to make him relevant as a leader of an opposition, has made inane comments and attempted to read out what I said to try to get what the Auditor-General wanted, which was a stay of execution, in order to conduct his office in an appropriate manner. I can tell you, Mr Hallam, a lot of people in this house might wish you had adjourned the debate back then and not proceeded to nobble the Auditor-General in the way you did because it might well have made a difference at the last election.

There is a precedent. The Leader of the Government has pointed to the annual leave payments bill, another precedent where this was done. The Honourable Rob Knowles on that occasion moved that the debate be

adjourned until the next day of sitting, to which the Honourable David White, a former member for Doutta Galla, attempted to do exactly what the Leader of the Opposition is doing now — that is, get an adjournment of two weeks. Of course the government at the time had the numbers and simply decided, 'Stiff luck, we will not do it'. On that occasion the Honourable Rob Knowles said:

> We have never sought to use our numbers in this house to gag debate and have provided the opportunity for any member who wishes to make a contribution to do so.

That will continue with the debate on this bill, which has been in the public arena for almost a month. The government seeks the adjournment of the debate on the bill until tomorrow so the debate can continue. 'Until tomorrow' means the very next day. As I said before, talk about hypocrisy! If the opposition wants to argue a point of view it should at least have the decency to say that there is some small measure of hypocrisy involved in saying, 'When we did it back then in government we used a different set of principles from what we are using now in opposition'.

I finish my contribution with this final point. Mr Hallam made a point about refusing leave for the bill. Had Mr Hallam not refused leave yesterday, the second reading of the bill would have occurred yesterday by leave, which is more or less normal practice in this house.

Honourable members interjecting.

Hon. T. C. THEOPHANOUS — The second reading would have occurred yesterday and debate on the bill could have commenced today. However, the opposition has no intention of debating the bill this week. It does not want to debate it. It is concerned and is running scared from the legislation because opposition members will have to go out and explain to their constituents why they do not want this place to be put before the people every four years rather than every eight years.

Hon. G. W. JENNINGS (Melbourne) — I shall make a brief contribution to debate on the motion for the adjournment of the debate. It was not originally my intention to do so, but I take the opportunity to put on the record that of course I support the motion moved by the Leader of the Government and as part of the government I will not oppose the amendment moved by the Leader of the Opposition. I take that position and put it on the public record because we should not use this opportunity to turn the Parliament into a courtroom melodrama.

In fact, many of the precedents referred to during the contributions to the debate today have effectively been calling on you, Mr President, to make a ruling based on precedent that may appear to be an appropriate mechanism in a courtroom. All honourable members in this chamber understand that is not how this house operates. The house operates on what will be a clear division along party lines on the motion. The clear outcome of the matter has not been in dispute for the past half-hour.

I call on all honourable members not to prematurely get out of the blocks, using an Olympic metaphor, in relation to the substantive debate that will ensue when we next meet on 20 September, if the motion is passed, and not to blur the public policy positions we may be arguing at that time with what is simply a procedural matter at this time.

For my part, I have no qualms about meeting during the Olympic Games. If we bring on the debate on 20 September the people who will suffer will be our families, whom we were hoping to spend some time with during the school holidays.

Honourable members interjecting.

The PRESIDENT — Order! The adjournment date is just a minimum time.

Hon. M. A. Birrell — It does not affect the sitting days, as I said in my opening remarks.

Hon. G. W. JENNINGS — I am happy to be here on 20 September. That is my understanding of the motion. On that basis I apologise to the house for being confused. I thought that was the intent of what the Leader of the Opposition was doing.

Hon. M. A. Birrell — You obviously did not listen to my speech.

Hon. G. W. JENNINGS — As I said, I got lost on the way through the various arguments about what was hoped to be achieved. If the date when the debate will be undertaken is made clear, the government has no problems with the amendment. In fact, the argument has become even more superficial because we will have a clear understanding between us that if leave is not granted or if an adjournment is sought, the house will divide upon party lines and the government will accept that result. That is clear. I would encourage the house — —

Hon. M. A. Birrell — Mr Theophanous spoke against the amendment.

Hon. G. W. JENNINGS — In consultation with the Leader of the Government, I support her position. The government will not oppose the amendment moved by the opposition.

Hon. BILL FORWOOD (Templestowe) — I rise as much as anything to say two things: the first is that we on this side of the chamber are delighted to work with the Deputy Leader of the Government in a cooperative manner to assist the work flow in the chamber. I contrast his approach to that of the former Leader of the Opposition. This place works better when all sides try to reach agreement on the way these things are handled. However, we on this side now seek clarification of what the government intends. Is it the intention of the government to change the sitting dates that have been promulgated — —

Hon. M. A. Birrell — By the Premier.

Hon. BILL FORWOOD — Yes, promulgated by the Premier, so that we return on 20 September, or is it, as we on this side of the house understand it, that if we adjourn the bill today for two weeks it will then be debated the first day we come back, which, from memory, is 3 October?

Hon. G. W. JENNINGS (Melbourne) (*By leave*) — I thank the house for the opportunity to clarify the position. My understanding is that the next time we have an opportunity to debate the matter will be on the next day of sitting. My contribution was based upon the false assumption that the opposition's amendment may have brought that sitting date forward. I apologise to the house for my confusion.

Amendment agreed to.

Amended motion agreed to and debate adjourned until Wednesday, 20 September.

ESSENTIAL SERVICES LEGISLATION (DISPUTE RESOLUTION) BILL

Second reading

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

That this bill be now read a second time.

The purpose of this bill is to enable the establishment of an Essential Services Ombudsman. The Essential Services Ombudsman will provide a customer dispute-handling mechanism for utility industries that is independent, fair and cost effective.

This bill fulfils a key government election commitment to establish an independent ombudsman to handle customer complaints and make rulings in relation to compensation in the utility industries. It represents an important part of the government's overall strategy to ensure that the introduction of competition and commercial provision into the delivery of these services is balanced by appropriate protections for customers. Utility services such as electricity, gas, water and sewerage are fundamental to the daily lives of all Victorians. The creation of the ESO complements other government initiatives including its customer protection framework for full retail competition in electricity and its proposal to establish an Essential Services Commission which will regulate the utility industries to ensure that they operate in the interests of consumers and society at large.

Following an extensive public consultation process involving customer groups, the utility businesses, and other key stakeholders, the government has come to the view that the ESO is best established by building on the existing energy industry scheme to include water and sewerage customer complaints. At this stage the government will not be including public transport within the Essential Services Ombudsman.

The government's approach to establishing the ESO reflects its confidence in the current operation of the Energy Industry Ombudsman, and builds on broad community support for these proposals expressed during the consultation process. The new ESO scheme will ensure that:

customers of government-owned water authorities across the state have access to an independent external complaint-handling scheme if they cannot receive satisfaction from their local water supplier. The current arrangements for complaint handling in the water industry inherited by the government are inadequate;

electricity, gas, and water customers can go to a 'one-stop shop' for dispute resolution, at no cost to themselves;

the scheme is funded by the utility suppliers rather than the taxpayer, and provides a strong incentive for them to resolve any complaints speedily; and

the new scheme can be established at least cost by building on and improving existing customer complaint mechanisms rather than incur the disruption and cost of starting from scratch.

The government is now working with the Energy Industry Ombudsman, the Regulator-General, the

energy and water businesses, and customer group representatives to implement the new ESO scheme. As part of this process, the government is looking for some changes to the operation of the current scheme to ensure its effectiveness and independence.

This bill establishes the formal legislative underpinning for the scheme. The government believes the right of customers of utility businesses to have access to an independent low-cost external complaint-handling mechanism is of such fundamental importance that it should be enshrined in the law. The bill will therefore impose the requirement on relevant electricity, gas, and water businesses to be members of such a dispute resolution scheme as a matter of law.

The government also believes the ongoing effectiveness of the scheme should be subject to independent oversight to ensure that it continues to provide customers with an independent, effective and low cost dispute-resolution process. To this end, the government will retain — and indeed strengthen — the role of the independent Regulator-General in overseeing the scheme. The bill provides that the Regulator-General certify that the scheme is operating in accordance with a number of specific criteria, including:

the scheme is accessible and there are no cost barriers to consumers for its use;

the scheme is independent from its members;

the scheme's decisions are fair and seen to be fair;

the scheme is accountable, by ensuring the publication of its decisions and information about complaints received; and

the scheme is operationally efficient and effective, by ensuring that the scheme undertakes regular reviews of its performance.

Finally, the bill provides for the licences of the gas distribution businesses — in addition to gas retail businesses — to require membership of a dispute resolution mechanism approved by the ORG. This is to ensure that end customers are not disadvantaged in having a complaint resolved because of a contractual or other dispute between their gas retail and distribution businesses. This provision will put gas distribution businesses on the same footing as electricity distribution businesses, which already have this obligation. The ORG will be consulting extensively with the industry in determining the best approach to meeting this obligation — which may or may not involve membership of the ESO.

I now turn to the specifics of the bill.

Part 1 of the bill states the purpose of the bill and its commencement date.

Part 2 provides for the amendment of the Electricity Industry Act 1993 to require that the licences issued to the electricity retail and distribution businesses include an obligation to be members of a customer dispute resolution scheme approved by the Office of the Regulator-General, in accordance with specified criteria.

Part 3 provides for a parallel amendment to the Gas Industry Act 1994 in respect of the gas retail and distribution businesses.

Part 4 provides for amendment of the Water Industry Act 1994 to require that the licensees (the three metropolitan water retail businesses: South East Water, City West Water, and Yarra Valley Water) enter into a customer dispute-resolution scheme approved by the Office of the Regulator-General with regard to the specified criteria.

Part 5 provides for amendment of the Water Act 1989 to require that the 15 non-metropolitan and 3 rural water authorities (which do not operate under a licensing regime) enter into a dispute-resolution scheme approved by the Office of the Regulator-General with regard to the specified criteria.

Part 6 provides for amendment of the Melbourne Water Corporation Act 1992 to require the Melbourne Water Corporation to enter into a dispute-resolution scheme approved by the Regulator-General, again in accordance with specified criteria.

I commend the bill to the house.

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

Debate adjourned until next day.

LOCAL GOVERNMENT (RESTORATION OF LOCAL DEMOCRACY TO MELTON) BILL

Second reading

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

That this bill be now read a second time.

This bill is very important for local government in Victoria. It continues the local government reforms already introduced by the Bracks Government with best-value Victoria.

Melton shire

Local government should ordinarily be made up of local elected councillors. The time has well passed for commissioners in Melton, and this bill returns Melton to normal.

We have a system of local government in Victoria, consisting of democratically elected councils. However, the Kennett government ignored this fundamental tenet of our constitution by retaining commissioners in Melton long after the restructure of Melton had been completed.

This bill gives back to the people of Melton the basic right that all other Victorians enjoy. This government does not intend to deny the voters their democratic rights any longer. The bill returns democracy to the residents of Melton.

This bill provides for the holding of a general election of councillors for the Melton shire on 13 October 2001. The commissioners will go out of office at the first meeting of the newly elected council. The commissioners' early removal from office reflects the necessity of returning democracy to all Victorians and is to occur with the agreement of the commissioners who accept the need to restore democracy at Melton at the earliest possible time. The government takes this opportunity to acknowledge the work of the commissioners for the service they have given since taking up office.

Following the election on 13 October 2001, subsequent elections will occur triennially, in line with other council elections (i.e., this term is two and a half years).

Miscellaneous amendments

The proposed bill also makes minor housekeeping amendments to the Local Government Act 1989.

I now turn to the provisions of the bill.

Clause 1 outlines the purpose of the bill — that is, to amend the Local Government Act to provide for the holding of a general election of councillors for the Melton Shire Council.

Clause 2 identifies the dates on which various sections of the bill will commence.

Clause 3 substitutes a new division 3 for divisions 3, 4 and 5 of Part 12 of the Local Government Act.

Section 248 provides for the holding of a general election of councillors for the Melton shire on 13 October 2001. It provides that the council is deemed to have decided to hold triennial elections and to have complied with the act's requirements as to notice. The costs of the election are to be borne by the council.

Section 249 provides that the chief executive officer must call a meeting of the council within 14 days of the declaration of the election result.

Section 250 provides that the commissioners go out of office at the start of that meeting.

Section 251 provides that subsequent elections must be held in March in every third year. The next election will be held in March 2004.

Clause 4 amends the Local Government Act to enable the holding of the election on 13 October 2001.

Clause 5 repeals the provisions of the act pertaining to the first poll of voters and the continuing appointment of commissioners.

Clause 6 provides that, upon the first council meeting after the election on 13 October 2001, the order in council that appointed the commissioners is revoked.

Clause 7 provides for the repeal of the Local Government (Governance and Melton) Act 1998 which is a spent act.

I commend the bill to the house.

Debate adjourned on motion of Hon. N. B. LUCAS (Eumemmerring).

Debate adjourned until next day.

BUSINESS OF THE HOUSE

Sessional orders

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

EQUAL OPPORTUNITY (GENDER IDENTITY AND SEXUAL ORIENTATION) BILL

Second reading

Debate resumed from 30 August; motion of Hon. M. R. THOMSON (Minister for Small Business).

Hon. C. A. FURLETTI (Templestowe) — The Liberal Party does not oppose the bill. The Equal Opportunity Act was introduced by the Kennett government and, like the legislation covering the victims of crime scheme that was amended by the house yesterday, was considered to be innovative and broad-reaching legislation for its time.

I remind the house of the purpose of the bill in clause 1 — that is, to:

> … amend the Equal Opportunity Act 1995 to prohibit discrimination on the basis of gender identity or sexual orientation.

Section 6 of the Equal Opportunity Act lists 13 attributes; the bill adds two further attributes that relate to sexual orientation and gender identity. The listed attributes prohibit discrimination and include elements such as age, marital status, pregnancy, religious beliefs, sex and race.

The Equal Opportunity Act is, as I said, a fairly far-reaching piece of legislation. While it provides for the prohibition of discrimination in respect of a number of attributes, part 3 of the act sets out in considerable detail the areas in which discrimination is prohibited. Those areas are covered in eight divisions of part 3 and cover discrimination in employment; employment-related areas; education; the provision of goods and services and disposal of land; accommodation; clubs and club membership; sport; and local government. I hasten to point out that each area identifies numerous exemptions when discrimination is permitted, and some 55 sections in part 3 set out in considerable detail the manner in which some element of discrimination is permitted. In addition to the exemptions I have referred to in part 3, part 4 contains a number of further general exemptions to the prohibition of discrimination.

Many members of the Victorian community have expressed concern and anxiety at the perceived ramifications of the bill before the house today. I am sure that, like me, many members of the house have received a large amount of correspondence and communication expressing that concern. Those comments and contributions along with consultation with the broader community were taken into account by the Liberal Party in considering its resolution not to oppose the legislation. The opposition does not oppose the main thrust of the bill. In fact, it believes that those areas it actually addresses are covered in the existing legislation. If there are any concerns or uncertainty as to the extent of the effects of the Equal Opportunity Act 1995, the opposition is happy to clarify those areas. I will comment shortly in that regard.

I hasten to put on the record that it is fundamental Liberal philosophy that we support the right of an individual to achieve his or her full potential without being subjected in any way to discrimination, and that all people should be treated equally. However, this type of legislation causes concern among various sectors of the community and requires the striking of that essential balance between the opposite spectrums of our community — that is, those who often fail to see the wood for the trees at each end of the forest in which they are standing.

It is for that reason that I have taken some time to try to bring the effects of this bill into the more global aspect of the amendments to the Equal Opportunity Act. The bill not only affects the specific attributes being dealt with in it but is also part of a broader picture and a more global area of gender identification.

Before addressing the effects of the bill, I bring to the attention of the house the meanderings of this bill on its journey to this place. This is an another example of the inexperienced and amateurish way in which the government is handling its legislative program. We saw this a short time ago in the material put before the house. A bill to amend the Equal Opportunity Act was introduced in the other place last April. As with the Constitution (Reform) Bill, which was withdrawn and has disappeared into the ether; the Accident Compensation (Common Law and Benefits) Bill, which was debated earlier this year; the so-called responsible gambling bill and a raft of other legislation, no consultation took place before the bill was introduced.

In its anxiety to create the perception that it is doing something the Bracks government rushes legislation into the Parliament and says it has done what it could and what it promised it would do. I remind the government that hasty introduction of hastily drawn legislation leads to bad law for which the government of the day must accept responsibility and under which Victorians citizens must unfortunately labour.

This bill is another of those pieces of legislation which the government introduced with some fanfare and then,

lo and behold, it found that it did not have the numbers in the other place to guarantee its passage. Therefore, the bill was required to lay over during the winter recess. We have a different bill before the house today to that which was tabled in April. Amendments were made after negotiation with the Independents and as a result of consultation with those whom the bill affects. I am not being derogatory in any way of the degree of consultation that has taken place. As I indicated, the Liberal Party has also consulted broadly with those who are affected by the bill.

The Liberal Party supports the concept that no-one in the community should be subject to discrimination, and that is why when in government it introduced the Equal Opportunity Act 1995 which has served the state well to date.

The bill is fairly brief. It deals with three principal areas. As I have foreshadowed, it introduces two new attributes under section 6 of the principal act — that is, sexual orientation and gender identity. The bill also introduces a number of exceptions to the application of the gender identity basis for discrimination in so far as it relates to employment. Through a transitional provision the bill inserts proposed section 224 into the principal act and introduces a retrospective provision that allows for claims for alleged discrimination on the basis of sexual orientation alone to be brought after the commencement of operation of the bill, notwithstanding that the acts occurred before the passage of the bill.

I have a fundamental opposition to the retrospective operation of most laws unless there are very exceptional circumstances. Therefore I find it unusual that this type of provision is being introduced, particularly when the provision relates to only one aspect of the bill — the sexual orientation aspect — and is not extended to the other — the gender identity side of it. I find it difficult to understand the reasoning behind that. The second-reading speech does not enlighten us in any way.

I hope the failure of the government to explain the basis for introducing retrospective legislation is not based on a blatant political grab. The politicising of such an issue in the community is not something that should be done lightly. I guess we will eventually be informed why that particular anomaly exists in the bill.

The bill addresses the issue of discrimination against a very small number of people who suffer a genuine identity crisis and who may have fallen through the cracks in the existing legislation. The community, which is called the transgender community, includes those who have been described by the shadow Attorney-General in the other place as those who are suffering psychological or biological trauma and whose birth sex does not match their gender identity. He suggested that such people feel trapped in a bodies they do not want and do not know which gender they are. I admit readily to my lack of knowledge and understanding of that condition. That it is caused through chromosomal and biological defects only affords me a limited clarification, but I am sure that other speakers will have greater expertise and will put greater detail before the house.

I have certainly been satisfied through the number of briefings and consultations I have had that notwithstanding the relatively low number of people who are affected a very high level of discrimination exists against those few people. That is usual because it is in that sort of rare atmosphere that discrimination thrives, because the fewer the numbers and the more exceptional the attribute, the easier it is to be discriminatory.

In addressing the bill in detail I will refer to defects in it and the reasons the opposition will say it does not oppose the bill rather than say it supports it.

Yesterday in a debate on another bill I drew to the attention of the house an unusual reference in the bill — to the ‘purposes and objects’ of that bill. Another unusual reference in the bill now before the house is in the definition of gender identity in clause 4(1)(b). It states that ‘gender identity’ means the identification on a bona fide basis — I emphasise the bona fide basis — of a person of indeterminate sex, et cetera.

Hon. R. M. Hallam interjected.

Hon. C. A. FURLETTI — I know what the term ‘bona fide’ means. It refers to somebody who is acting in good faith, Mr Hallam, but I wish to make the point that in the interpretation of legislation it is not necessary to put that a person is acting in good faith in a subjective sense because clearly it is presumed to be the case. If one needed to add that in every instance the state’s legislation would be a bit strange.

One could translate it into a driving situation, where it would be said a person was driving bona fide in a safe and appropriate manner. One could probably put bona fide in front of each of the attributes listed in section 6 of the act. I can therefore only conclude the use of the term ‘bona fide’ is a sop to the Independents, who had something to say about it, because it was not in the original draft of the bill that was tabled earlier in the year.

Clause 4 also refers to medical intervention. Again I seem to be harping on my penchant for wanting accuracy in the legislation that comes before the house. My view is that legislation should be readily understandable. Honourable members can appreciate areas where a carefree approach or some lack of precision would be accepted, but to use terms such as 'medical intervention' in legislation of this nature must of necessity cause legislators some concern, because medical intervention can mean anything from consulting a doctor who suggests that you do things differently to undergoing the dramatic surgery that is involved in some of the procedures being discussed. The inaccuracy in this particular instance leaves a lot to be desired.

Another aspect arises from an experience I had when I was in practice. It concerned psychological advice or intervention, which is clearly a fairly common element of treatment in the area under discussion. I remember seeking to rely at one stage on a psychologist's report in a criminal matter and the judge indicating very early in the piece that there was absolutely no way the law allowed him to accept that evidence because the psychologist could have been somebody who had only an arts degree, commerce or law degree, and was not a medical person. The judge indicated he required medical evidence in the form of a psychiatrist's report. Those sorts of subtle differences can present difficulties further down the track in applying the legislation.

Clause 4(2) inserts a new definition of sexual orientation in section 4 of the principal act. It was indicated to the policy committee that sexual orientation was encompassed in the existing act under the definition of lawful sexual activity. In the second-reading speech the minister indicated that was probably the case but that the term 'lawful sexual activity' had connotations that were not very well received by gay and lesbian groups and therefore the new definition would be far more suitable. Again I ask, if the new definition is more appropriate I am surprised that the term 'lawful sexual activity' has not been removed and the new definition substituted. However, there is no explanation in the second-reading speech as to the motive for that.

Clause 5 simply adds two new attributes in section 6 to which I have previously referred. Clause 6 inserts proposed section 27B to provide a further exception under the category of employment.

I mentioned earlier discrimination in the field of employment, for which there are number of exceptions. The bill adds a further exception. My argument is that there is no need for it because the provisions currently in the Equal Opportunity Act, in particular sections 17 and 24, would cover the concerns that are addressed in proposed section 27B. The clause may have been for the purpose of negotiating the safe passage of the bill through the other place with the Independents. It appears to create more problems than it will solve.

I direct attention to the provisions of section 17 of the act, where there is an exception from discrimination if there is a genuine occupational requirement in the employment. A number of areas are addressed specifically, such as particular physical characteristics being necessary for the employment; to preserve decency or privacy; searching of the clothing or bodies of people of that sex; being required to enter a toilet used by people of that sex; and so on. Sex-specific areas are allowed some discrimination.

Section 24 of the act refers specifically to standards of dress and behaviour and states:

> An employer may set and enforce standards of dress, appearance and behaviour for employees that are reasonable having regard to the nature and circumstances of the employment.

Clause 6 inserts proposed section 27B, which states:

> (1) An employer may discriminate against another person on the basis of gender identify in any of the areas specified in section 13 or 14 if —
>
> (a) the person does not give the employer adequate notice of the person's gender identity; or.
>
> (b) the person gives the employer adequate notice of the person's gender identity but it is unreasonable in the circumstances for the employer not to discriminate against the person.

It sets parameters within which the determination of reasonableness comes into play.

I would hesitate to advise anybody, even with 30 years of legal practice behind me, on what the term adequate notice would be in those circumstances, what that notice should contain and what form it should take. One has to ask whether the notice relates to the mere fact of gender identity or whether it relates to the fact that there is to be a change — if so, the process of a change could extend for up to six months. That creates more problems than it seeks to address.

All the states and territories except Queensland have introduced legislation of this type. The Liberal Party supports the concept of the bill, but as usual it is obliged to express its concerns about the drafting and implementation of the legislation.

Hon. G. D. ROMANES (Melbourne) — I support the Equal Opportunity (Gender Identity and Sexual Orientation) Bill, which is an important step forward in human rights legislation in Victoria. The purpose of the bill is to prohibit discrimination on the basis of sexual orientation or gender identity and thereby extend protection against discrimination on the basis of homosexuality, bisexuality and heterosexuality for all Victorians.

Clause 5 of the bill introduces two further attributes, gender identity and sexual orientation, into the Equal Opportunity Act. By doing so it extends protection to people whose gender identity does not match their physical sex at birth. This transgender group includes people who have undergone reassignment surgery, people who have not undergone surgery but seek to live as a member of the other sex and people who temporarily, such as cross-dressers, on a bona fide basis adopt the characteristics of the other sex.

Clause 4 inserts definitions into section 4 of the principal act and also provides that the definitions in the bill relate to people who identify on a bona fide basis as members of the other sex.

The addition of the term 'bona fide' was introduced into the bill after consultation with the Independents in the other place and with other stakeholders involved originally in the drafting of the bill, including Transgender Victoria, the Equal Opportunity Commission and other interested parties. When the bill was introduced into the other place in April the Independents expressed concern about it, and at that point further consultation took place which resulted in broad agreement and the introduction of the term 'bona fide' into the bill.

The fact that the various parties who debated these issues over the past few months have been able to reach agreement on various parts of the bill that have been altered since it was first introduced in the Legislative Assembly reflects a desire across all parties to find a way forward and to ensure that the bill goes ahead to protect those among the most vulnerable in the community who are involved in making such serious, life-changing decisions as changing their gender identity.

In reflecting on this issue and its importance to the people involved I refer to the *Health Report* on ABC radio last Monday evening. Professor Louis Gooren, Professor of Endocrinology at the Free University of Amsterdam, spoke about his work in a clinic for transsexuals in the Netherlands. He said he had worked in the clinic for more than 25 years and during that period has seen more than 2200 people, including children as young as five years of age and the members of their families who brought them to the clinic, grappling with these problems.

Professor Gooren said that each year he would see about 150 new subjects and a range of treatments would be available, but about 90 cases would involve surgical treatment. Professor Gooren stated that there was:

> … no way but to adapt body to the mind.

Consideration of those cases led him to the conclusion that the best way forward for the people he was seeing was to have treatment or to have surgery. Professor Gooren made another telling point when he said that no-one does it for fun.

As the previous speaker said, the legislation affects a small number of people. However, it is important because it affects the lives of those vulnerable people. If one examines the amendments to the 1995 Equal Opportunity Act one notes that the term 'lawful sexual activity' was introduced as a ground on which it was unlawful to discriminate. On that occasion that antidiscrimination amendment was introduced and added to the list of attributes in the act that was quoted earlier by the Honourable Carlo Furletti.

The amendment was seen to relate mainly to homosexuality. As was said earlier, the gay and lesbian communities took offence at the inference that they are more likely to engage in unlawful sexual activities than other sections of the community. Nonetheless, the Victorian Gay and Lesbian Rights Lobby has commented on the fact that the introduction of that amendment and that ground on which it became unlawful to discriminate in 1995 has brought some improvement to their situation. The 1999 report of the Victorian Gay and Lesbian Rights Lobby, *Enough is Enough*, surveyed 929 members of gay, lesbian, bisexual and transgender communities in Victoria and reported some optimism that the lawful sexual activity attribute has contributed to a decrease in reported discrimination in some areas, such as goods and services and the police force, where some good work is reportedly being done to combat discrimination. The attribute of lawful sexual activity will remain in the act as a protection for Victorians of whatever sexuality.

Following consultation with the Independents and as a result of the working party convened by the Parliamentary Secretary for Justice, Mr Richard Wynne, the bill adds a new exception to the range of exceptions already contained in the Equal Opportunity Act. The amendment provides that an employer will be

able to discriminate against a job applicant or employee on the basis of a person's gender identity if the person does not give the employer adequate notice of the person's gender identity, or gives adequate notice but it is unreasonable in the circumstances for the employer not to discriminate.

As the Honourable Carlo Furletti pointed out, terms such as 'unreasonable' and 'adequate notice' and even 'bona fide' can provide some difficulty in interpretation when cases reach the courts or tribunals of the state. Therefore the CEO of the Equal Opportunity Commission will undertake to provide guidance and educational material on the operation of those terms. The material will be developed and distributed by the Equal Opportunity Commission. An educational task is required to facilitate and assist the operation of the bill when it becomes law.

I turn to the reasons for the amendments. Previously I referred to the research done by the Victorian Gay and Lesbian Rights Lobby in its 1999 survey. For the first time the survey, by comparison with the 1994 survey, separated out transgender people as a separate category. Further information has come forward about discrimination against transgender Victorians as opposed to lesbians, gay men and bisexuals.

According to the research 84 per cent of the 929 members interviewed reported at least one form of discrimination or abuse. Those who reported such discrimination or abuse reported it in the following categories: assault or harassment in a public place, 79 per cent; employment, 48 per cent; education, 31 per cent; the provision of goods and services, 28 per cent; medical treatment, 27 per cent; police or other law enforcement bodies, 20 per cent; parenting, 16 per cent; club membership, 14 per cent; and tenancy, 11 per cent. They are significant figures, and the overall incidence of discrimination and abuse at 84 per cent is a worrying figure for these groups.

Transgender participants in the survey were more likely than the other groups to report discrimination or abuse connected with the police, goods and services and in a category that had particular reference to transgender people — invisibility. The invisibility that affects transgender people is the consequence of assumptions that heterosexual relationships are the natural ones in the community and practised by all its members. This belief has led to legal and social invisibility for many lesbians, gay men and bisexuals but in particular it is felt very acutely by transgender people. It is an issue that affects the mental health of that group and often leads to low self-esteem and depression. It is a significant issue for the transgender community.

Society needs to address the underlying causes of discrimination. I direct the attention of honourable members to the Australian Institute of Criminology study no. 155, which I am sure most honourable members have recently received, dealing with gay-hate related homicides. The study highlights the relationship between such crimes and prejudice within society and makes the point that there is a need to tackle the attitudes that underpin such crimes and acts. Attitudes need to be tackled before behaviour can change.

The study also makes the point that parliaments can send strong messages about the value of tolerance, acceptance and diversity and that parliamentarians have a role to play. Parliamentarians can send a message and courts, commissions and tribunals can reinforce that message. Educational bodies such as schools and other educational institutions play important roles. The Australian Institute of Criminology would say they play a unique role in other ways.

I quote from page 6 of the Australian Institute of Criminology report, which states:

> It has been emphasised that the school environment is a place of education as well as a place where socialisation with other children with different characteristics occurs. Therefore, schools are in a unique position whereby they are able to teach children the general values of accepting one another and of valuing and respecting each other despite differences. 'Children and adults armed with strong values are likely to be better able to resist the misinformation and invitations to violence found in the community'.

That emphasises the important role of schools and education institutions in socialisation, in teaching values of acceptance and tolerance and encouraging and teaching young people to respect difference — and there are a range of differences such as language, cultural mores, gender, sexual orientation, disabilities, working backgrounds and age that we need to take account of if we are to live in harmony in society.

The Australian Institute of Criminology makes the point that discrimination and crimes of discrimination are based on bigotry and do not impact just on the target group but also on the wider community, and they affect the social harmony we strive for.

The bill is important because it is a statement fundamental to the community and society we want to see in place in Victoria. It reflects the need for the whole of society to remain vigilant in protecting everyone, no matter where they come from and what type of person they are, but particularly the most vulnerable. It reminds us that difference constitutes the greatest challenge for the world. I am mindful when saying that of media reports in the past few days that

highlight the horrible case in South Africa where a white employer is accused of dragging a black employee behind his truck for 5 kilometres, leading to the death of the employee. Difference can lead to fear and can create enormous barriers. We have to recognise difference and grapple with it daily. Parents, governments and legislatures around the world, including this Parliament, have a role in setting standards appropriate to the recognition of diversity in all its shapes and colours and in valuing difference in our communities.

We also know that the laws and actions of government to support those differences, whatever they are, highlight the fragility of people in minorities or in certain situations. It worries me as a woman that the federal government has failed to adopt the optional protocols of the United Nations convention on the elimination of discrimination against women. It is the wrong message to send to the world and to our community, particularly to women in our community, about the rights and protections women need. I am concerned about the ramifications of the federal government's action and the message it sends and the effects it will have in the medium and long term.

Through the bill we need to make a strong statement about difference, about tolerance, about values and about respect for the many different people who live in our society. We must act consistently in this regard and put in place a legislative framework that further protects some of the most vulnerable in our community.

I understand from what Mr Furletti said that the Liberal Party does not oppose the bill. I wish it had supported and been more encouraging of the bill and the protection of the people it is designed to assist. Nevertheless, the fact that the Liberal Party will not oppose the bill is a step forward, and I welcome that. There is a lot more work to do.

Hon. W. I. Smith — The initiating bill was a reform of the Kennett government.

Hon. G. D. ROMANES — The Liberal Party is not enthusiastically supporting it.

Hon. M. T. Luckins — It has been modified.

Hon. G. D. ROMANES — I remind the house that the government and the Equal Opportunity Commission are reviewing the Equal Opportunity Act and the many recommendations in *Enough is Enough*, so there is much more to do and consider in the months and years ahead to address the full range of problems faced by transsexual and gay and lesbian communities in society. I commend the bill to the house.

Hon. R. M. HALLAM (Western) — The National Party found the Equal Opportunity (Gender Identity and Sexual Orientation) Bill most difficult, and I admit that our members went through something of a struggle before reaching a consensus view which I now report to the chamber — namely, that the bill should not be opposed.

I am happy to have the chance to report upon the reasons why the National Party found this bill difficult. At the outset I state that we did not find it to be complex, because as we now learn it has one central objective, which on the surface is clear. All it seeks to do is change the Equal Opportunity Act prohibiting discrimination on the basis of two new grounds — namely, that of gender identity and/or sexual orientation. They are the two new grounds in addition to those listed in section 6, which refers to age, impairment, industrial activity, lawful sexual activity, marital status, physical features, political belief or activity, pregnancy, race, religious belief or activity, sex and parental status or status as a carer.

The bill is relatively simple and makes one single change that could have been captured in one sentence in the purpose clause. The question is why it involved so much concern across the community, so much debate here and in another place and so much time, thought and energy at our party room table.

I hasten to clarify one point. The bill has one single objective, which is to prohibit discrimination on particular grounds. I make it clear that the concern of the National Party and the difficulty it had did not go to the fact that the bill relates to the prohibition of discrimination. The National Party was not trying to wind back the clock. Its views on discrimination were well documented when the Equal Opportunity Act was framed and debated in 1995. I, along with my colleagues, am proud of the extent to which our party contributed to that legislation, which we say is a high-water mark of community standards and expectations relative to overt, unwarranted discrimination.

The National Party considers that in government it contributed to enlightened legislation — legislation that was heading in the right direction — and it supports the notion that community tolerance should be a primary objective. The National Party also supports the notion that that same concept of community tolerance can be pursued or at least promoted by legislation, rather than simply waiting for the innate good of man to emerge from the community at some time in the future.

Our starting point is that the Parliament cannot legislate morals, but it can set standards and expectations. The National Party is relaxed about the Parliament leading the charge rather than blithely following community opinion. Indeed, one thing that is paramount in the view taken by my colleagues is that the individual responsibility of members of this place is that of representatives of their electorate as distinct from those of delegates. We place great store on the distinction between the role of a representative and that of a delegate. Therefore, to a person, we take the view that we are stuck with the need to keep an eye all the time on the big picture and the long-term benefits, as opposed to the views of the last protest group we may have spoken to.

I make the point, and it was a point well made in the party room debate, that the National Party believes it has demonstrated in government that it is not afraid to be up-front in relation to controversy, and it thinks that being up-front is the much more responsible position. We acknowledge it is not as comfortable as being down the back with the stragglers, and probably not as popular, but it is much more responsible to be in the vanguard. We take the view that members of this place should assume, at least in some part, the role of leadership rather than that of follower.

The point that I want to make in this context is that the difficulty the National Party confronted in the bill was not an attempt to step back from the 1995 position, or to weasel out of the position taken then, but quite the reverse. Its major concern was that the bill and the changes that were in it may have the effect, albeit unwittingly, of winding back and unravelling the protections built into the legislation already on the statute book — that is, the 1995 act. While the government may, with all the best intentions, want to extend and clarify the existing law, our concern is that however well meaning that objective may be, the bill may well have the opposite effect and actually limit the protection provided by the 1995 act through the introduction of several complex and arguable new concepts. I note that the Honourable Glenyys Romanes in her contribution to the debate included the fact that a number of the concepts introduced in the bill are at least arguable.

The National Party's view is that some of those concepts are so complex and arguable that they may well land up in a court for determination, and in the process open the door to an unpredictable outcome. That was our dilemma. I instance the examples provided by the Honourable Carlo Furletti, who mentioned the new concept of medical intervention which is included in the definition of gender identity in the bill. Mr Furletti mentioned the issue of adequate notice, which is now to be part of proposed section 27B. There are others. Let us think fleetingly about the issues of cost and discrimination, feasibility, financial impact, financial circumstance, and unreasonableness, all included in proposed section 27B. For that reason alone there was a great need to take care with the bill.

It is important to remember, at least from our perspective, that discrimination is not banned by the current legislation. It is not banned by the bill. If one goes to the law of the land, the statutes of this state, one sees there are pages of exemptions and exceptions based on realistic occupational requirements, reasonable terms of employment, and the realities of the physiological differences between the sexes. There are plenty of examples where the physiological differences impact in a way that is logical and supportable, and we note exemptions in respect of competitive sports, or where services are based on those physiological differences — for instance, the difference in life expectancy across the sexes is most assuredly to be taken into account by the insurance underwriter who is writing life cover.

That might be at one extreme, but it is just as cogent to argue that the same issues need to be taken into account if one is, say, interviewing a sales assistant working in a lingerie shop. I spent a lot of time working in the retail industry and I understand those issues can be difficult. We are not dealing with issues that are black and white. There is a whole range of grey areas. There are no absolutes, and we must be careful with the concepts we leave in our wake, because they are all, at the end of the day, sensitive and personal and in some cases quite intrusive, and therefore that much more difficult.

The point that came to the surface again and again in the debate at the party room table was that the 1995 legislation — that is, the law of the state as it currently stands — was the product of a most extensive and even arduous process. I well recall that countless hours went into the development process, both in the backroom under the committee structure, and across the party lines, then throughout the community and ultimately in the Parliament itself.

I pay tribute to the Honourable James Guest, a former member of this chamber who served as the chairman of the bills committee. If he were here I am sure he would confirm that an enormous amount of effort and energy went into the development of that 1995 bill. My own leader, Peter Ryan, recalls he spent many hours as a member of that committee.

So the concepts in the legislative structure we have now did not happen by chance. They went through a most arduous testing process before they became part of the law of the land. The National Party is not saying today that that law is perfect. That is not what the argument is. The law, as it is currently constructed, has obviously worked, and I point to the fact that there is no groundswell of public concern out there in the marketplace and there is no avalanche of cases coming before the courts to gain clarification of those sensitive issues or to challenge any particular term.

The National Party is not just running the simplistic line, if it ain't broke, don't fix it. Its concern is a subtle variation on that. The National Party is saying that if it is not broke, beware of any well-intentioned tinkering that might have the effect we are trying to avoid. I use as an instance the relevant example of the school council. When this debate emerged across the community, a number of people raised specific concerns about employment by a school council, and the extent to which discrimination should be seen to be warranted in those circumstances. There were a number of concerns, many of which were ill founded and unfortunate, and many the product of some clever scaremongering.

I refer to the 1995 changes to the Equal Opportunity Act 1995, and particularly section 25 which is headed 'Exception — care of children', which provides:

> (1) Nothing in section 13 or 14 —

They specifically apply to discrimination in employment:

> applies to discrimination by an employer against an employee or prospective employee if —

and the three grounds are:

> (a) the employment involves the care, instruction or supervision of children; …

Obviously it captures the school council circumstance. The second condition is:

> (b) the employer genuinely believes that the discrimination is necessary to protect the physical, psychological or emotional wellbeing of the children; …

I have no doubt that the grounds for such beliefs could be demonstrated in the areas where concern was being expressed.

Finally, under the current law discrimination would be sanctioned if:

> having regard to all the relevant circumstances, including, if applicable, the conduct of the employee or prospective employee, the employer has a rational basis for that belief.

That section effectively addressed the bulk of the inquiries that came to our electorate offices. It states that school councils could discriminate where the discrimination could be demonstrated to be made on a rational basis. In those circumstances, discrimination is not only tolerated but also anticipated. There are wide areas of grey, and there are no black and white issues. The real concern of National Party members was that the government, with the best of intentions, may unravel the very thing that the former government fought so hard to achieve in 1995.

Another concern rests with the new grounds on which discrimination is to be prohibited — namely, gender, identity and/or sexual orientation. They are not simple concepts — indeed, they are anything but simple. As has been acknowledged even in the chamber today, the new grounds raise many consequential questions. We see that evidenced by the flurry of activity in the finetuning of the bill prompted by an Independent's amendments in another place and the government's attempts to accommodate those amendments. It was only in the last few hours of debate in the other chamber that the position of the various parties could be finalised, because up until then they had a moving target which was not conducive to simple party room decisions.

I want it understood that that comment is not meant as a complaint. We do not say that the fact the bill was a moving target should be criticised, because it could be argued that it was an example of the Parliament at work. The Parliament has by way of its modus operandi reached a compromise, and one could argue that it is a classic example of a compromise being fashioned at the eleventh hour. The house has before it a deal that is a product of that compromise in another place. The flurry of activity in the other place underscored again and again that Parliament is dealing with some very elusive concepts with some unpredictable consequences. All those circumstances added to the time and care needed to be devoted to the bill in the party rooms.

I will briefly address each of the new grounds of prohibition in turn. The first is the attribute of sexual orientation. I will spend a moment or two addressing what that encompasses. I remind honourable members that the minister's second-reading speech includes the note that the act currently prohibits sexual discrimination on the basis of lawful sexual activity. I again refer to the act, which lists lawful sexual activity in section 6 under the heading 'Attributes'.

I turn in that context to the comments of the former Attorney-General, Jan Wade, when she introduced the originating bill, in which she made it very clear what it was intended to cover. She states:

> Discrimination which is based on a person's lawful sexual activity or imputed activity is prohibited under this bill. Many homosexual members of our community suffer discrimination on a daily basis, whether in employment or when trying to gain access to goods and services or accommodation. This new ground of prohibited discrimination is intended to protect homosexuals, lesbians and heterosexuals or people perceived to fall into a particular category from discriminatory actions and provide an avenue of redress when such discrimination does occur. Lawful sexual activity does not include paedophilia or bestiality.

Those comments would make the issue of lawful sexual activity pretty clear to the casual observer. However, we are now told that the description is offensive to many homosexual, lesbian and bisexual Victorians who believe it implies that they are more likely to be involved in immoral or unlawful sexual activity. We are told that some groups in the community are not happy with the inference contained in the definition. Apparently the law is to be changed just because a section of the community is unhappy with the way the law is expressed.

I, for one, am not persuaded by that rationale for wholesale change of the law. As it happens, I am most unhappy with Victoria's gun laws. I, together with thousands of law-abiding shooting sports enthusiasts, resent the implication that we cannot be trusted with a self-loading .22 rifle or shotgun, that the community must be protected from our propensity to emulate Martin Bryant, and that we are all somehow mass murderers in disguise.

In my view being unhappy with the law is hardly a rationale for substantive change to it. It is clear that discrimination against homosexual, lesbian and bisexual Victorians — or for that matter heterosexual Victorians — on the basis of lawful sexuality activity alone is currently prohibited at law. That fact is not challenged. Apparently the rationale for the bill is that some sections of the community are unhappy with the way the protection of the law is expressed as distinct from the question of whether that protection is provided.

We could say, 'Notwithstanding all that, and notwithstanding that we consider that to be a belt-and-braces argument, why not accommodate those concerns?'. That would take us full circle and bring us back to the issue that complicated the discussion in the first place. It introduces a whole range of new concepts and thus the risk of unintended consequences, of which I spoke earlier.

We started from the premise that simply having people unhappy with the way in which the law was expressed rather than the way in which it worked was not a compelling case for change, because there was at least room to argue from either side of the case. If there were one single factor that won the day and influenced my attitude and that of my National Party colleagues to the bill, it probably came from the second ground of discrimination now prohibited under the bill — that of gender identity. The definition of gender identity needs to be looked at fairly carefully. It is spelt out in the bill, and it means:

> (a) the identification by a person of one sex as a member of the other sex (whether or not the person is recognised as such) —
>
> (i) by assuming characteristics of the other sex, whether by means of medical intervention —

I want to come back to that —

> style of dressing or otherwise; or
>
> (ii) by living, or seeking to live, as a member of the other sex; or
>
> (b) the identification by a person of indeterminate sex as a member of a particular sex (whether or not the person is recognised as such) —
>
> (i) by assuming characteristics of that sex, whether by means of medical intervention, style of dressing or otherwise; or
>
> (ii) by living, or seeking to live, as a member of that sex.

We are told in the second-reading speech that that definition of gender identity is meant to cover all those whose gender identity is different from their physical sex at birth. That is the group included within the umbrella description of transgender.

Three factors seemed to be important when that issue was brought to the table. The first was that apart from Queensland — do not ask me why! — every other jurisdiction in Australia has effectively included the transgender group among those that should be protected against discrimination. Although we may claim we have a mortgage on wisdom it was likely to be hard to sustain the line that we were the ones who were right and everybody else, apart from our Queensland colleagues, was wrong. That was a compelling argument.

Secondly, although it could be and was argued that most people to be included in the generic category of

transgender would have been and were protected under the existing law, it was clear that one group, albeit a small group, had been not included in that protection. They had fallen between the cracks, as the Honourable Carlo Furletti said; that group was those born of indeterminate sex.

If any group in the community should be entitled to a fair go surely it is that group caught in a physical no-go zone that must be put near the top of the list if we are to have any compassion. That was a major factor in the National Party's response, because the bill clearly protects a group that did not enjoy protection under the existing law.

The final factor that determined the party's stance may have been the most persuasive — that is, a recognition of how painful that sort of discrimination must be for all those who face it in their everyday lives. I freely admit that I am unable to imagine what that discrimination must be like, but it must cause anguish and despair when an individual is constantly reminded that he or she is different in a basic way.

If we were genuine in our efforts to promote and pursue tolerance across society we must surely understand that those unfortunate enough to be caught in a group or class subjected to that discrimination and stigma are not there by personal choice, but rather through the lottery of nature — the same lottery that thankfully makes us all different.

Some sobering comments were made when we, sitting around the table, were reminded that there but for the grace of God goes each of us. Although we are concerned about the suggested changes to the Equal Opportunity Act in that they may quite inadvertently complicate or undermine the existing law, the National Party has formally resolved it is a worthwhile risk given its view that tolerance towards the differences in others is a mark of a civilised society and is something worth striving for. Therefore, the National Party does not oppose the bill.

Hon. E. C. CARBINES (Geelong) — I am pleased to support the Equal Opportunity (Gender Identity and Sexual Orientation) Bill. It furthers the Bracks government's commitment to strengthen the Equal Opportunity Act to ensure that all Victorians have equality of opportunity and are free from discrimination. The bill makes it illegal in Victoria to discriminate on the basis of gender identity or sexual orientation.

It is a sad fact of life that members of the gay, lesbian and transgender communities in Victoria today often face discrimination in the conduct of their daily lives. That discrimination, which can take many and varied forms, has its basis in ignorance, suspicion, intolerance, fear and prejudice. Last year, as the Honourable Glenyys Romanes said, the Victorian Gay and Lesbian Rights Lobby conducted a survey of more than 900 of its members about the discrimination and abuse they experience in Victoria. The findings of the survey are reported in *Enough is Enough*. On page 1 the report cites the categories of abuse or discrimination experienced by survey participants. They include assault or harassment in a public place, employment, education, provision of goods and services, medical treatment, dealings with police or other law enforcement people, parenting, club membership, and tenancy.

The list stands as an indictment of Victoria today and is the reason the Equal Opportunity Act had to be amended. The bill will send a clear and unequivocal message to all Victorians that discrimination on the basis of sexual orientation and gender identity is illegal in Victoria.

At the launch of *Enough is Enough* the co-convenor of the Victorian Gay and Lesbian Rights Lobby, Mr Kenton Miller, gave an impassioned speech and graphic account of overt discrimination that he has experienced in Victoria as a gay man. He talked about regular bashings, verbal abuse and about rejection by friends and family. He also explored the insidious hidden discrimination that makes it virtually impossible for many gay, lesbian and transgender people to be accepted in society and to have their relationships treated with the same respect as members of the heterosexual community.

The discrimination that gay, lesbian and transgender people experience often starts early in life. I was interested in the contribution of the Honourable Glenyys Romanes when she referred to the findings of the Australian Institute of Criminology. She talked about the importance of schools in an educative process aimed at encouraging tolerance. As a former secondary school teacher I can attest that adolescents who are struggling to come to terms with their own emerging sexuality can be quick to pass judgment on others who they see as different from them, and that verbal abuse is commonplace in our schools. Sometimes, most regrettably, that abuse can turn into physical abuse and, sometimes, violence. It is sad that the tendency to discriminate sometimes starts at primary school where young children quickly learn that to call somebody gay is a put-down, a perjorative, yet they have no idea what they are saying.

Members of the gay, lesbian and transgender community are marginalised in Victorian society. That is evidenced in the incidents of discrimination tabled in *Enough is Enough*.

The Equal Opportunity Act now affords protection from discrimination for the gay and lesbian community, but it does not do so for the transgender community. When reading *Enough is Enough* I was disturbed to learn of the level of discrimination faced daily. I shall detail some of that. It is reported on page 3 of the report that transgender participants in the survey reported they were twice as likely as other men and three times more likely than other women to report discrimination in their dealings with the police. That discrimination may include entrapment and harassment, particularly in the line of police questioning.

Page 2 of the report reveals that transgender participants were more likely to report having been threatened or bashed than other men or women. *Enough is Enough* also found that as a result of their experience of discrimination and abuse, transgender members were most likely to suffer from an invisibility complex in the community which translated into depression and a low level of self-esteem.

The second-reading speech details that it is estimated that some 95 per cent of transgender people lose their jobs while going through their transition. That stark statistic alone is enough reason for this house to be debating the Equal Opportunity (Gender Identity and Sexual Orientation) Bill today. I understand that this bill has the support of the Victorian Gay and Lesbian Rights Lobby and Transgender Victoria. As a member of Parliament I, like most other members in this house, received a letter from the Victorian Gay and Lesbian Rights Lobby seeking my support for this bill. I am pleased to be able to demonstrate my support by speaking in favour of the bill in the house on behalf of the government.

As a member for Geelong Province I received correspondence from a constituent of mine who is a member of Geelong's transgender community. She wanted to stress to me the importance of this bill to the transgender community and to seek my support for its passage through the upper house. I replied to my constituent that as a member of the Bracks government I was proud to support the Equal Opportunity (Gender Identity and Sexual Orientation) Bill and would be voting in favour of it when it came to the upper house. However, I advised my constituent that the bill also required the support of the opposition members, whose numbers mean that they will determine the fate of this bill. I suggested that she contact the Honourable Ian Cover, the other member for Geelong Province, to seek his support as she had done mine. My constituent contacted me again to thank me for my support and advice and to say that she had acted on it.

I am very pleased to learn from the speakers from the Liberal and National parties that they do not intend to oppose the bill, and that will ensure its passage into legislation. We have heard other speakers talk about the fact that the passage of this bill will bring Victoria into line with all other states and territories except Queensland, and that has to be a good thing; we should not lag behind on these things. The Equal Opportunity (Gender Identity and Sexual Orientation) Bill sends a very straightforward message to all Victorians — that is, discrimination on the basis of gender identity and sexual orientation is illegal in our state.

At the launch of *Enough is Enough* Mr Miller spoke very passionately about his experiences. I would like to quote from his speech, which I downloaded from the Internet. In his conclusion he said:

> It would be nice to think that, in the year 2000, we lived in a world without discrimination or abuse — but we don't.

This bill is all about fundamental human rights to which every person in this state is entitled. I congratulate the Attorney-General on his work on the bill and wish it a speedy passage. I commend the bill to the house.

Hon. A. P. OLEXANDER (Silvan) — I am very pleased to associate myself with the debate on the bill. I am very grateful and proud that my party has given me the opportunity to help place on the record the position of the Liberal opposition on this piece of legislation. When I started to think about how I should approach this bill, a quote that I first read as a young man — I think I was 16 years of age and it was about 1980 — kept coming back to me. The quote was this:

> It was the duty of Liberals to study … and to tread as ever, the paths of progress. In doing so, they would make mistakes but they would leave the world on the whole a better place than they found it.

That quote came from one of the great early Liberals, Alfred Deakin. It inspired me then and it still guides me now. I think that quote is very appropriate in this type of debate where we are talking about issues of human rights and it should guide the way that this chamber deals with a bill such as this.

It is important to cover some of the issues that are often misunderstood when talking about law reform in areas like this. The first thing I would like to tackle is the question of what it means to be a transgender person, who are transgender people and what are their issues.

To pass legislation on transgender people the chamber needs to be aware in some detail about the people who will be affected by this legislation.

The term 'transgender' is an umbrella term and includes transsexuals, cross-dressers and people of the category known as intersex or of indeterminate gender. Transgender people are real people living everyday lives with real concerns. Consequently, like the rest of society they deserve protection against discrimination. That applies to everybody in society and it should certainly apply to these people. Having a gender identity disorder is not a flippant or trivial choice. That is another common misapprehension people have when we talk about transgender or gender identity issues. It is not a trivial choice and it is not something people pursue on a whim. It is an internationally recognised medical dysphoria and is referred to in the United States *Diagnostic Services Manual IV*. It is recognised internationally by psychologists, and some evidence exists that there are biological originators to the condition. The Melbourne Gender Identity Disorder Clinic at the Monash Medical Centre concludes that there is evidence that gender identity disorder is biologically caused.

It really does not matter how it is caused and whether it is a psychological or biological issue or a combination of both. What matters is that transgender people do not feel that the social role and gender assigned to them at birth is the appropriate role for them. They have a genuine and deeply felt issue of self-identity. Transsexuals in particular can identify as being trapped in the wrong body. This is a very important point to understand.

Transgender people are arguably one of the most marginalised and discriminated groups in the community. As other honourable members have done in this debate, I would like to briefly share with the house statistics from two recent publications. Other members have quoted from *Enough is Enough*, which was published recently by the Victorian Gay and Lesbian Rights Lobby. That report included the following statistics: 22 per cent of transgender people are unemployed; 50 per cent had experienced problems with police, an alarmingly high number; 21 per cent had been bashed in a public place and even more reported public threats and verbal abuse. These are staggering numbers. This is an alarming thing to be occurring in society. The report also stated that 56 per cent of transgender people had experienced real problems related to the provision of goods and services — in contracting for business, doing trade and being served in the ordinary context of a business or retail environment. Those statistics are unacceptable in a civilised and democratic society.

I would also like to quote from some research conducted by Roberta Perkins, a masters degree student from New South Wales, who in 1994 published an Australia-wide research paper entitled *HIV/AIDS — Needs of Transgender People*. Ms Perkins found that 95 per cent of transgender people lose their jobs when they make the transition from one gender to the other. Almost universally transgender people are experiencing discrimination upon transition. The study also found that 38 per cent of transgender people attempt suicide. What an extraordinary statistic! It is much higher than the percentage for any other cohort in the population including young regional and rural men, a group that has received a lot of attention as it should, but so too should this statistic.

A total of 52 per cent of transgender people became isolated from their communities and those around them; and 27 per cent had moved out of Victoria and into other jurisdictions such as Western Australia, New South Wales, the Australian Capital Territory and other places where the issue of discrimination against transgender people had been addressed. That is a very large number. In her report Ms Perkins states:

> This figure represents a depressing picture of transgenders as victimised by a society insensitive to their needs. Well over a third of the sample had attempted suicide … low self-esteem are by-products of an almost continuous discrimination and social ostracism by others in society, from professionals, bureaucrats, law enforcers and employers to their families, neighbours and the average person on the street. A combination of social ostracism, emotional deprivation and family rejection leads to a desperately lonely existence which in turn often leads … to suicide.

It is timely that the bill is being debated. It is very appropriate that Parliament is taking legislative action to protect transgender people in society. The statistics are alarming, even shocking, and they must be addressed. It is the role of government to address such issues. The debate is about real people who have real lives who are facing enormous obstacles and difficulties. Anything that can be done to alleviate those issues for them should be done.

Having said that, I want to put on the record that I am a very proud member of a party that has a tremendous record on equal opportunity in this state. It was the Hamer Liberal government that introduced Victoria's first Equal Opportunity Act in 1977. That act dealt predominantly with equal opportunity for women and gender discrimination. It was the Hamer government that ensured that homosexuality was effectively

decriminalised in Victoria with amendments to the Crimes Act.

Of course it was the Kennett government that in 1995 brought in the ground-breaking Equal Opportunity Act covering for the first time sexual orientation as a ground for discrimination. It was also under the Kennett government that the important Equal Opportunity Commission report entitled *Same Sex Relationships and the Law* was published in 1998 under the stewardship of Jan Wade, former Attorney-General. It was Jan Wade who in 1998 initiated the comprehensive whole-of-government review that aimed to ensure that all legislation in Victoria complied with equal opportunity legislation.

The Liberal Party can hold its head high on equal opportunity issues in this state. While Labor often likes to make a loud noise and beat the drum over its social progressiveness and social reforms, it is the Liberal Party in Victoria that has the real runs on the board. I believe the instances I have just recounted to the chamber demonstrate that fact.

Hon. R. F. Smith — It was seven years you had to get the runs — seven years! What did you do?

Hon. A. P. OLEXANDER — Mr Smith interjects and states — —

Hon. R. F. Smith interjected.

Hon. A. P. OLEXANDER — He obviously was not listening to what I had to say, Mr Acting President, because in 1995 it was the Liberal Party that introduced the principal act, the act Labor proposes to amend today with this bill. Perhaps Mr Smith should pay more attention to the debate. If he did he would understand more about the history of equal opportunity. As I was saying, while Labor does like to make a loud noise about its social responsibility — —

Hon. R. F. Smith — You make it sound as though this is your legislation.

Hon. A. P. OLEXANDER — It is basically our legislation but with a few important changes.

Hon. R. F. Smith — Oh, how could you stand up and say that?

Hon. A. P. OLEXANDER — I will go back to a quote. I refer to a speech given in Adelaide by Alfred Deakin on 29 March 1906. It states:

> The Liberal Party has been distinguished by two or three leading principles. It has sought social justice by trusting the people and developing the powers of self-government … Against the Liberals is gathered a party much less defined, which has really no positive program, and which adopts an attitude of denial and negation — a party which may be fairly called the anti-Liberal party … The Labor Party is not distinct from the Liberal Party in regard to many questions involving social justice … The Liberal Party does not fear to use the social powers and authorities which legislation and administration present.

That is very obvious in the legislative record surrounding equal opportunity in Victoria.

I turn to the bill, which simply proposes to add two further attributes as the basis of lodging an antidiscrimination claim, and broadens out an exemption in section 66 of the principal act regarding competing in sporting activities.

The first attribute is that of sexual orientation. 'Sexual orientation' is defined in the bill as including homosexuality, lesbianism and bisexuality as well as heterosexuality, and is an addition to the existing attribute of lawful sexual activity.

The second attribute is that of gender identity, and the change extends coverage to transsexuals, cross-dressers and intersex people. The amendments moved last week in the lower house are now a part of the bill being debated today. They include two further important changes. The definition of 'gender identity' has been amended to include what can only be described as a bona fide test. The words 'on a bona fide basis' have been incorporated into the definition. An additional lawful discrimination exemption that specifically relates to employment has now been included. Other speakers in the debate have defined how that clause will operate.

The bill contains many serious deficiencies. Liberal members have noted those on equal opportunity grounds and I propose to take the chamber through them. It concerns the Liberal Party that from an early stage there were two major deficiencies in the original bill introduced by the former government. The first related to intersex people, who are people of indeterminate gender who make a choice to live as either male or female. However, following discussions with intersex people the opposition has been advised that some people choose not to live exclusively as either male or female. Many decide to live the way that they were born, as intersex individuals. It is very clear that the bill does not cover or protect them in any way. Those people are born with chromosomal variations. They are born into a situation and deserve protection under a bill such as the one before the house. In the words of the Leader of the National Party and my colleague the Honourable Carlo Furletti, they do seem

to have fallen between the cracks and should not have. They should have been included in a bill such as this.

The second concern relates to a somewhat vague and subjective sporting exemption. The opposition believes the government could have more adequately covered that issue by looking at other jurisdictions such as Western Australia, where the Court government has inserted a test associated with its legislative framework on the basis of competitive advantage. The wording of the clause in the bill the house is considering is vague and open to misinterpretation. It would have been better if the legislative example set in Western Australia had been followed.

I turn to the process that has brought the bill before the house today. Other speakers have touched on it but I will go into it in some detail. Honourable members present may not be aware of the body blow that was inflicted on the transgender community when the Attorney-General, at the behest of the Premier, withdrew the unamended bill on Thursday, 2 June. The Attorney-General claimed that the withdrawal of the bill was so that the government could further consult with the Independents, specifically the Independent members for Mildura and Gippsland East, on areas of particular concern they had.

We in the opposition understand that this often stormy consultation process concluded with transgender community representatives accepting the bona fide test and the further employment exemptions after a tremendous amount of pressure was applied to them by members of the government, and by their reckoning and as they advise me, by departmental officers. It is no secret that Kenton Miller from the Victorian Gay and Lesbian Rights Lobby and Transgender Victoria would have preferred the house to be debating the original bill that was in place before June, but it is not.

Two important amendments have been made as a result of pressure placed by the honourable member for Mildura and the honourable member for Gippsland East in the other place upon the Premier, and the Premier caved in. The Premier said he would convene another round of consultations and get agreement around the table. Government members who were part of that consultation process decided to put pressure on the community negotiators, those from Transgender Victoria in particular, and say to them, 'Look, you have to compromise on these Russell Savage amendments because if you don't the likelihood is that there will be no bill at all'. They were presented with an ultimatum, 'Accept these amendments and the bona fide test or perhaps run the risk of having no bill at all'.

That is an inappropriate use of the consultation process. It puts the lie to the way members of the Labor Party wax long and lyrical about their party's desire to consult with communities. It is unprincipled and should not have happened.

I turn to some problems with the amendments themselves.

Honourable members interjecting.

Hon. A. P. OLEXANDER — The bill now includes a 'bona fide' test for transgender people. I have been advised by well-respected people in the legal profession that no such subjective test applies.

Honourable members interjecting.

The ACTING PRESIDENT (Hon. G. B. Ashman) — Order! The house can do without the interjections across the chamber.

Hon. A. P. OLEXANDER — I note the interjection of the Honourable Bob Smith that there are allegations that he sexually harassed somebody, but I do not think those allegations have anything to do with the bill we are debating today.

Hon. R. F. Smith — On a point of order, Mr Acting President, I object to that comment implying that I have been either charged or convicted of sexual harassment. If Mr Olexander wishes to make an issue of it he should do so by way of substantive motion and give me the chance to debate it, otherwise he should withdraw.

Hon. A. P. OLEXANDER — On the point of order, Mr Acting President, I made no such allegation. I did not imply there had been charges. All I said was that it was inappropriate for Mr Smith by way of interjection to be canvassing issues about allegations of sexual harassment. It is not the issue we are debating today. I believe there is no point of order.

Hon. R. F. Smith — On a further point of order, Mr Acting President, I do not believe that is exactly what he said. He made mention of my being charged with sexual harassment, and I demand that it be withdrawn.

Hon. A. P. OLEXANDER — On the point of order, Mr Acting President, *Hansard* will show I made no such allegation.

The ACTING PRESIDENT (Hon. G. B. Ashman) — Order! If Mr Olexander has made the allegation he should withdraw. If he does not believe he made the statement — I cannot recall the

precise words — there is nothing to withdraw. I will leave it up to the discretion of the honourable member. If he believes he used the words he referred to in his submission on the point of order, he should proceed. If, however, he believes he may have used the words Mr Smith suggested he used, he should withdraw.

Hon. A. P. OLEXANDER — I shall deal with the problems the opposition has identified with the amendments that have been introduced in the bill. The bill now includes a 'bona fide' test for transgender people. I have been advised by well-respected people who operate in the legal profession that no such subjective test applies to any other group in Victoria or in legislation. That is an important point. If that is the case, and I stand to be corrected, what an outrageous and offensive situation it is to have a bona fide test apply to a group in equal opportunity legislation of this nature. It is offensive and will be interpreted as being so by many people in the community.

The bona fide test sets up a barrier which did not exist in the original bill and which adds to the trauma transgender people are already suffering. It means that the Equal Opportunity Commission has to subjectively determine who is bona fide and who is not. That raises privacy issues for people who may seek protection under the act and may be a major disincentive to people who wish to seek the protection of the act.

The opposition has significant concerns with the adequate notice provisions in the exemptions relating to employment. Again it is a subjective term. What is adequate notice? Is it three weeks, two months, six months or two years; or, more importantly, will adequate notice change from circumstance to circumstance? It provides another opportunity for those who oppose the equal opportunity legislation to argue against such applications being upheld by the commission.

More extraordinary is that the employment provisions have been lifted almost word for word from the federal Disability Discrimination Act. The employment exemptions range through a number of issues about financial impact on a business, the feasibility of accommodating a person and the cost and other effects on a business, such as loss of profit and so on. The federal provisions have just been dropped into an act dealing with able-bodied, fully functioning people. One has to ask on equal opportunity grounds whether that is a good example for the government to be setting. These employment exemptions do not apply to any other group under the act. There are generic employment exemptions in the Equal Opportunity Act, but what the government has done at the behest of the Independents is introduce a raft of provisions that come out of the federal Disability Discrimination Act.

Transgender people are not disabled, they are able-bodied, fully functioning, vital people who interact with the general community without requiring protection for a disability — something they have done for a long period. What they require protection from is discrimination, which is what this bill is about.

The government, through the insertion of the specific employment exemptions dealing with the costs to the employer, feasibility, accommodation and financial impacts upon the employer's business opens up a Pandora's box that potentially could destroy the ability of the bill to protect transgender Victorians from legal protection against discrimination in their employment. That Pandora's box will be looked at closely by those who seek to deny transgender people their rights.

I shall quote from a letter I received on 24 August from the co-convener of Transgender Victoria, Kayleen White, when we were discussing the issue of the amendments, what they meant and what potential impact they might have. She states:

> … the various issues you raised are possible triggers for people to attempt to discriminate against transgender people, but their discrimination must stand up before the commission. Ultimately whether the employment exception is applicable or not is determined by the EOC.

That is true. The Equal Opportunity Commission will have to determine those issues. However, the exemption and the insertion of the amendment will open up a whole new range of issues upon which people can base arguments for denying transgender people their rights. She goes on to say:

> Probably the main issue we really need to discuss is whether this clause enshrines discrimination. The short answer to that is yes.

In discussions I have had with the Victorian Gay and Lesbian Rights Lobby, Transgender Victoria and Seahorse Victoria it was acknowledged that pressure was applied to them to accept the amendments in the bill. They would have preferred to have a bill debated in the chamber and passed into law that did not include the offensive bona fide test or the offensive employment exemptions. However, that is what the government has delivered.

It is clear that these communities experience some of the most extreme forms of discrimination in seeking employment and in the workplace. The exemptions, in particular, will potentially allow employers to discriminate if other employees refuse to use facilities

within the business that need to be shared by a transgender employee and the employer needs to establish new or duplicate facilities; or if suppliers or clients of the business refuse to work with or transact business with a transgender employee, which may lead to added costs or loss of business to the employer.

Clearly in both instances the insertion of the government's amendments, which were supported by the Independents, would lead to discrimination by fellow employees, suppliers or clients and could lead to lawful discrimination against a transgender person by his or her potential employers. The government has established — and secured agreement from the affected communities, at least publicly — a worrying potentiality. The government will have to wear the consequences of that during the next three or four years as the act is put into practice.

I put on record that the Liberal Party is committed to true and genuine consultation with all community groups, and the transgender community and the gay and lesbian communities are no exception to that rule. Almost from the day I was elected I opened up a constructive dialogue with the transgender lobby group, Transgender Victoria, the Victorian Gay and Lesbian Rights Lobby and Seahorse Victoria, arguably the largest transgender and cross-dressing organisation in Victoria. The discussions we have had over the months have been productive and informative. I have been made aware of many issues that I was not previously aware of. I have made numerous friends in the transgender community — people who have been at the forefront of transgender reform, and people who have suffered directly from discrimination. I hope those friends will remain friends for life.

I put on the record my congratulations and thanks to people such as Kayleen White and Sally Goldner from Transgender Victoria, who played a very important part in briefing my colleagues in the Liberal Party and members of the National Party on the issues associated with transgender living and issues associated with the bill. I also thank Paula Corbett and Lauren Christopher from Seahorse Victoria, who provided much valuable advice and a very interesting perspective on the government's amendments. I also thank Kenton Miller, co-convenor of the Victorian Gay and Lesbian Rights Lobby, for sharing his thoughts and experiences throughout the process. They are all very committed and dedicated people who deserve to be congratulated. Their sheer guts and determination have inspired me to continue to press for legislative reform.

Notwithstanding the opposition's concerns about the shortcomings of the bill, it will not be opposed by the opposition. The bill is an important step for transgender people in particular, but much remains to be done in the future. Two members opposite can be sure that the opposition will closely monitor the methods of the government's dealings and consultations with the affected communities. The opposition will not let the issue rest. We will closely watch the application of the legislation in practice, particularly the new bona fide test and the government's employment exemptions. I wish the bill a speedy passage.

Hon. D. G. HADDEN (Ballarat) — I support the Equal Opportunity (Gender Identity and Sexual Orientation) Bill. The purpose of the bill, contained in clause 1, is to prohibit discrimination on the basis of gender identity or sexual orientation. The objectives, as set out in section 3 of the principal act, are to eliminate, so far as possible, discrimination against people by prohibiting discrimination on the basis of various attributes and to promote recognition and acceptance of everyone's right to equality of opportunity in society.

Clause 4 sets out new definitions of gender identity and sexual orientation that are to be inserted in section 4 of the principal act. The attribute of 'lawful sexual activity', as contained in the principal act, already prohibits discrimination on the basis of a person's sexuality. However, the use of the term 'lawful sexual activity' has been criticised by certain groups because it focuses on sexual practices. Members of the gay and lesbian communities find the term offensive because they believe it implies that homosexual people are more likely to engage in unlawful or immoral sexual activity.

The bill will add the two words 'sexual orientation' to the list of attributes in the act, which is defined to mean homosexuality, including lesbianism, bisexuality or heterosexuality. The attribute of 'lawful sexual activity' will remain in the principal act because the attribute prohibits discrimination on the basis of a person's private life beyond their sexual orientation — for instance, those working as prostitutes.

Clause 4 will add the attribute of gender identity to the list of attributes in the principal act, and that will make it unlawful to discriminate against a range of people whose gender identity does not match their birth sex and includes transsexuals, transvestites, cross-dressers and hermaphrodites. The Honourable Elaine Carbines pointed out that an estimated 95 per cent of people who make the transition from one sex to the other lose their jobs because of that transition.

The attribute of gender identity will apply to people of one sex who identify on a bona fide basis as a member of the other sex or who seek to live as members of the

other sex. It will also apply to people of indeterminate gender who identify on a bona fide basis as a member of a particular sex. The words 'on a bona fide basis' have been included in the bill as a result of a government amendment in the other place. That amendment was developed following extensive negotiations by the Attorney-General's parliamentary secretary, Mr Wynne, with the honourable member for Mildura in the other place and Transgender Victoria. The inclusion of the words 'on a bona fide basis' in the definition of gender identity is intended to limit the protection of the act to persons who genuinely assume the characteristics of another sex. As honourable members know, the words 'bona fide' mean 'in good faith'.

Clause 6 inserts proposed section 27B into the principal act. It provides that it is not unlawful for an employer to discriminate against a person on the basis of gender identity in certain circumstances. This exception provision will probably become known as the employment exception.

Clause 7 amends section 66(1) of the principal act to provide that it is not unlawful to exclude a person on the basis of that person's gender identity from participating in a competitive sporting activity in which the strength, stamina or physique of competitors is relevant.

I return to the employment provisions and cite a hypothetical example of how the provisions would work. Case study no. 1 concerns a person named Ken, who is a transgender person employed as a shop assistant in a small bakery. Two years into his employment Ken wishes to commence hormone treatment and to change his appearance to that of a female. He advises his boss of his intention and mentions that the effects of hormone treatment and the changes to his appearance will be gradual but noticeable over the next six to eight months. Soon afterwards Ken's employer cuts his hours and transfers him away from the shop into the factory. Ken enjoys customer contact and is upset by this move. He complains about his treatment but is told by his supervisor that nothing can be done.

Ken makes a complaint of discrimination on the basis of gender identity to the Equal Opportunity Commission. Ken's employer claims his actions were reasonable. In this example the employer has had adequate notice. Ken has told the employer before any change is to occur and explained that the change in appearance will be gradual. There is no direct additional cost to the employer of continuing to employ Ken in the shop. It is feasible for the employer to accommodate Ken's change in appearance.

Given Ken's customer skills and willingness to sensitively discuss his change of appearance with regular customers, the financial impact on the employer is likely to be minimal. The employer's actions have had a major impact on Ken. His hours have been reduced and he is now unable to meet all his monthly financial commitments. Psychologically he has been embarrassed and devalued as a person and has lost contact with regular customers who had become friendly with him over the past two years. The employment exception proposed in clause 6 would not apply in Ken's case and the complaint would be handled by the Equal Opportunity Commission and would go to conciliation.

The second case study of my hypothetical case studies under the employment provision — —

Hon. D. McL. Davis — On a point of order, Mr Acting President, the honourable member is clearly quoting from a document and I wonder whether that document is sourced. It is a hypothetical example, but I ask whether the honourable member will make it available to the house.

The ACTING PRESIDENT (Hon. G. B. Ashman) — Order! It may be appropriate for the honourable member to provide the source of the document. It may be the member may wish to maintain the confidentiality of the person being referred to, but the source of the document could be useful.

Hon. D. G. HADDEN — I would need to keep the person's identity confidential. This is a hypothetical case study of an example of how the employment exception would operate. Disclosing the source may breach some confidentiality.

Hon. D. McL. Davis — It is a Labor Party source.

The ACTING PRESIDENT (Hon. G. B. Ashman) — Order! I understood Ms Hadden to say it was a hypothetical example, but she now indicates it is a real person. Perhaps the honourable member could indicate whether it is a hypothetical case or whether it is a real case and a real person. If it is a real person the house would like to know the source without actually identifying the individual involved.

Hon. D. G. HADDEN — They are hypothetical cases.

Hon. D. McL. Davis — On the point of order, Mr Acting President, I do not think that is satisfactory. The honourable member should be required to provide the title of the document and the source so that the house knows the substance of the document and whether it can be relied on in its deliberations.

Hon. J. M. Madden — On the point of order, Mr Acting President, Ms Hadden has indicated it is a hypothetical circumstance, but the source of the document may bear on the issue of privacy relating to those who supplied the information. The sensitivity of the matter is not hypothetical, but the source from which it has been obtained is a privacy matter.

The ACTING PRESIDENT (Hon. G. B. Ashman) — Order! On the point of order, if it is an issue of privacy and it has come from an organisation, Mr Davis is entitled to know the source of the document. However, if it comes from a source that may identify the individual as being the hypothetical case study, the honourable member may care to indicate whether that is the case. If it is from an organisation the honourable member should reveal to the house the source of the document.

Hon. D. G. HADDEN — Mr Acting President, given the discussion that has ensued I am not sure that I fully understood what you were saying.

The ACTING PRESIDENT (Hon. G. B. Ashman) — Order! What I am suggesting is that if the document is from an organisation it is appropriate for you to reveal the source of that organisation as being the source of the document. If, however, the document has been provided by an individual and that individual is the hypothetical person to whom you are referring, you need to indicate that that is the case, that the hypothetical person is the source person in which case the house would respect that confidentiality.

Hon. D. G. HADDEN — It is sourced from a person who wants her identity to remain confidential. The case study is an example of how the employment exception would operate. Transgender people are normal people with family, children and friends and should not be discriminated against on the basis of any of the various attributes.

I now give two examples of persons who have suffered discrimination as transgender people. I will cite their first names only and not their surnames out of respect for their privacy. The first example states:

> Pippa's experiences show some of the worst that can happen to transgender people, including threats of physical assaults. Although a competent technician, with nearly 20 years of continuous experience in six positions, transitioning two years ago led to loss of her job. Since then Pippa has applied for 147 jobs, attended 36 interviews, has been offered two jobs and has only worked one year. (She has had one job offer later withdrawn). She was hired by one company in January, but was told that her services were no longer required at the start of March. Pippa is very lucid on the difficulties of applying for jobs, including the need to change résumés (particularly previous referees), and the difficulties for a transgender person to seek accommodation when a previous landlord is behaving in a strongly prejudicial manner and when suffering the effects of not being employed.

Pippa can make more information available about her experiences on request, but that is not necessary.

The second example is about Michael:

> Michael has worked in many fields, not always needing to use his professional qualifications in education, librarianship and psychology. After transitioning, he moved to another employer as the employer he had been working for at the time sent him out to jobs on the basis of him being female, but clients would see him as clearly male. He now works in community services, where he is accepted as a male, even though some people know his past.

In summary, the Equal Opportunity (Gender Identity and Sexual Orientation) Bill is important. It is timely and necessary in a fair and just pluralist society. I commend the bill to the house.

Hon. D. McL. DAVIS (East Yarra) — The opposition does not oppose the Equal Opportunity (Gender Identity and Sexual Orientation) Bill. My comments will complement a number of previous speakers, including the Honourable Carlo Furletti, who has given a good exposition of the bill and made a number of points the opposition wants to make about the bill. I also compliment the Honourable Dianne Hadden on her obviously sincere comments on the bill. I was somewhat concerned that she did not reveal the document she referred to. I accept the Acting President's comments that if it was from an organisation she should reveal it; if it was from an individual, one needs to have the appropriate degree of care.

Hon. D. G. Hadden — And sensitivity.

Hon. D. McL. DAVIS — Absolutely. Nonetheless, I expressed my concern for the obvious reason that I felt it was a document she was commenting on in the house and therefore the house had every right to express concern about its source.

I also compliment the Honourable Andrew Olexander on his contribution to the debate which has made some new ground in this house in terms of the depth of his contribution and his obvious knowledge of the issues

involved in this area, and also his knowledge of many individuals who are transgender or would be dealt with by the bill. His knowledge has been helpful to the opposition and has placed its understanding of some of those issues on a firm footing. I compliment him in particular on his contribution.

The bill follows a long line of bills. It is important to place on the record that in the 1970s the Liberal Party under the Hamer government introduced the first equal opportunity bills into this state. Indeed, it was my predecessor, the Honourable Haddon Storey, who did much of the background work to those bills and made a strong contribution at that time.

I also want to pick up a point made by the Honourable Carlo Furletti that the bill grows out of the 1995 act that was introduced by the former Attorney-General, the Honourable Jan Wade — an act that has stood the test of time and been able to evolve in a constructive way, as one would expect in this vital area of law concerning the fairness in society. It is important to tie that back to some strong Liberal principles in this area.

It is important also to realise that the bill is about enabling people to maximise their potential in our community, both in employment and in other areas, but to do that in a way that enables people's potential, skills and attributes to come out to the greatest extent. As a matter of principle, people should not be discriminated against on the basis of gender identity and the other characteristics that are listed in the bill and the principal act, which has a comprehensive coverage of many forms of discrimination. The act will continue to evolve over time and will produce an impact that will make our society fairer. That is the crucial background.

It is not my intention to go through the bill in forensic detail, but I want to make some comments about changes that were made to it in the lower house. I make those comments genuinely in the context that people on this side of the house want to see a fairer community. We want to see the bill and the legislation achieving the best possible outcomes in our community.

A number of speakers in the other place, including Mr Andrew McIntosh, the honourable member for Kew, made excellent contributions to the background of the bill, particularly about making sure it went as close to achieving its aims as possible. It is unfortunate that a number of changes were made to the bill at a late stage. The original bill was modified at the request of a number of people. In particular, I refer to the sequence of events that occurred after the bill had been introduced to the lower house. It is important to understand the interplay between that event and the community.

What occurred was unfortunate in many ways. It involved Russell Savage, the Independent member for Mildura in the other place, whom I do not criticise on a personal level because his opinions on the bill are sincere and he has a view that is motivated by what he sees to be in the community interest. One can always respect individuals while disagreeing with particular views they may hold. One can respect the bona fides of their position without necessarily agreeing with them. It is my understanding that Mr Savage strongly indicated his views to the Premier and that at that point the Premier reversed the government's stance on the bill and withdrew it in an unhelpful way, only to later introduce modifications.

I place on record my concern that the Premier introduced a bill that he was prepared to modify in a way that reduced its effectiveness, and did that under some influence. I believe it could be said that he displayed a lack of principle. I am concerned that that event has transpired. Again, I make it clear it is not Mr Savage I am critical of, it is the Premier, who clearly did not have the ability to stand up and state his views.

The bill was withdrawn and modified. The modifications, as I said, have diluted the effectiveness of the bill and created confusion. The bona fide test that is introduced in part of the bill is a difficult test legally, and the Honourable Carlo Furletti has made some useful comments about that today.

The bona fide test will open up legal challenges and avenues of argument that will be novel, expensive and cumbersome, and they will dilute the effectiveness of the act. Honourable members should be under no illusions that the modifications are a response by the Premier to comments put to him. His decision to modify the act in that unhelpful way will introduce great uncertainty into the legislation. It will not help to achieve the aims and objectives of the act with which both sides of the house in this chamber agree. That is a great pity. It augurs very poorly for the Parliament that the Premier is able to be influenced in that way. I express my deep concern about that process.

It is important to understand that during the process of interaction between the parliamentary process and the community a number of incidents and difficult moments occurred. It was made clear by the Honourable Andrew Olexander in his contribution that pressure was applied to a number of community groups as part of the consultation process.

Hon. R. F. Smith — Untrue.

Hon. D. McL. DAVIS — It is not untrue, Mr Smith; it is quite true, and that is clear to all who know those groups. A number of those groups are on the public record to that effect. That is not the way that community consultation should be undertaken. It is not the role of governments to leverage community groups and put them in take-it-or-leave-it positions, as was done on this issue. The community consultation process was certainly not conducted in the spirit of the aims and purposes of the principal act, and I register my concern about that. I hope future consultations will not be conducted in that way.

The Premier should review his approach to those issues and recognise that he is out of step with much of the Labor Party. A genuine ideological divide seems to be opening up inside the Labor Party on those issues. A number of people on the Labor back bench are concerned and are expressing outrage that the government stepped back from what it originally intended to do and took another course in response to pressure from an Independent whose vote on the issue was, frankly, not required in the lower house. The Premier has taken the opportunity to make a political point and take a different course from the preferred direction of most members of the Labor Party.

Honourable members need to be watchful of the ideological division that is occurring within the Labor Party to ensure that progressive steps in the community are not stymied. Undoubtedly there is a divide on the issue between the Premier and the Attorney-General, who would have preferred the original bill. The Attorney-General was directly instructed by the Premier to remove the original bill, modify it and introduce amendments with which the Attorney-General fundamentally did not agree. There are even difficulties within cabinet on those sorts of issues. I expect that over time more and more of those issues will come to light.

Members of the Labor Party have expressed their concerns to me. I will not reveal to the house who they are, because that was done in confidence. Some information from within the Labor Party has been provided to the opposition. I note that at an early stage before the modifications were made an electorate kit was produced for the Labor Party by the Information Services Unit. The opposition has obtained a copy of that document, which makes quite interesting reading. There are noticeable tensions within the Labor Party on some of those issues.

Hon. D. G. Hadden — You are making this up.

Hon. D. McL. DAVIS — I am not making it up. Would you care to see the document?

Hon. D. G. Hadden interjected.

Hon. D. McL. DAVIS — Would you like to see it? Perhaps you would like me to quote from it?

The ACTING PRESIDENT (Hon. G. B. Ashman) — Order! The honourable member will speak through the Chair.

Hon. D. McL. DAVIS — I take up the honourable member's interjection. Unlike what occurred earlier in the debate, I am happy to quote from the generic news release that was provided — —

Hon. D. G. Hadden — By the Honourable who?

Hon. D. McL. DAVIS — By the Honourable XXX, actually. That document was provided to the opposition. That example of Labor on the front foot is a generic news release that many people would be interested in. It reads in part:

> The member for XXXXXXX today welcomed Labor's new law to prohibit discrimination against people on the basis of their gender identity or sexual orientation.
>
> 'This law is socially progressive and protects the rights of gays and lesbians', XXXXXXX said today.

That news release was made before the bill was changed. It is quite interesting to note — —

Hon. D. G. Hadden interjected.

Hon. D. McL. DAVIS — May is the month, but I cannot give you the exact date.

Hon. C. A. Furletti — It was a long time before the bill was changed.

Hon. D. McL. DAVIS — Indeed, it was a long time before the bill was changed. It was before the intervention of the Independent member for Mildura in the other place, Mr Russell Savage, and before the Premier made his historic decision to change the bill by introducing the bona fide test to reduce the effectiveness of the operation of the bill. The news release goes on in similar vein, making a series of claims about the original bill, not the current bill before the house.

I again refer to the Honourable Andrew Olexander's contribution. He made some important points about the seriousness of the bill and the impact of discrimination on people in our community. He justified that point in

an accurate way, referring to good research that has been done.

I note from the information and research in *Enough is Enough*, which have been referred to a number of times during the debate, that up to 95 per cent of transgender people who undergo the transition process from one gender to the other lost their jobs as a result of that process.

Hon. D. G. Hadden — That is shameful.

Hon. D. McL. DAVIS — I agree with the comment of the Honourable Dianne Hadden. I do not think anyone in the chamber would disagree with those comments or with the seriousness of the bill.

In conclusion, the opposition supports the principle of antidiscrimination. At the same time I am concerned with the way the process has been undertaken and with the Premier's lack of principle on the issue. I am concerned about the unsatisfactory consultation process and about the untoward and inappropriate pressure applied to a number of community groups during the consultation process. I firmly oppose that form of unsatisfactory community consultation. I compliment a number of honourable members on their helpful contributions.

The PRESIDENT — Order! I call the Honourable Bob Smith.

Hon. M. T. Luckins — On a point of order, Mr President, I have been informed by a colleague that the Honourable Bob Smith recently made offensive comments about me. I only partially heard his remarks because of the noise in the chamber during the debate. In addition to referring to me as Madam Fifi he said something like, 'You'll have no problem with sexual harassment; just look at you'. I object to those offensive statements and ask the honourable member to withdraw.

Hon. R. F. Smith — On the point of order, Mr President, I have no problem withdrawing. I expect her to withdraw her comment to me about sexual harassment.

Hon. M. A. Birrell — On a point of order, Mr President — —

Hon. R. F. Smith — I withdraw.

The PRESIDENT — Order! The other issue is a matter that could be raised by the Honourable Bob Smith, if he thought it appropriate.

Hon. R. F. SMITH (Chelsea) — I am happy to support the bill. I came to this house principally to support working people, disadvantaged people and members of the community who face discrimination. The bill goes a long way towards achieving antidiscrimination measures for a particular group in society called transgender people, a group that is not widely known. As a result of changes in the bill and the education program that will follow, the community attitudes of many people will be changed.

Who are transgender people? They are not perverts or monsters, nor are they people who exercise flippant or trivial choices of sexual orientation. They experience genuine heartfelt issues of self-identity — issues that are considered to be medical, and in some places, legal issues, in all states other than Queensland.

I took the opportunity to meet representatives of Transgender Victoria so that I could gain a personal grasp of the issues. The organisation's co-convenor, Kayleen White, was of great assistance in helping me understand the issues, and I thank her for that. She has done a great job in explaining the issues to a number of politicians and departmental officers. She should be congratulated on that. Her organisation should be proud of her because it takes courage for a member of a group such as Transgender Victoria to put herself in the public domain. I commend her on that.

The bill is a product of another Bracks election commitment and should be supported. It will amend section 6 of the principal act to add the phrases 'gender identity' and 'sexual orientation' as bases on which it is unlawful to discriminate. Nobody should doubt that there is a need for the bill. I heard the Honourable Roger Hallam suggest earlier that because a flood of people are not complaining about or abusing the system, therefore logically the problem is not large. Although only a small group within society may be affected, 95 per cent of people lose their jobs when it becomes known that they are transgender. The lucky ones who do not lose their jobs frequently suffer a decline in the quality of their working life when workmates or employers become aware of their gender change. As they try to go about their lives they are subjected to negative reactions from various parts of society, including the service sector, accommodation providers and others.

As a result of the bill a concerted effort will be made by the Equal Opportunity Commission and the government to educate the public at large regarding all issues on the subject. It will go a long way towards eliminating discrimination. I have had first-hand experience on the issue. I was challenged by a couple of

golf club members, who said, 'What are you people doing? What is going on with this transgender business?'. They overwhelmingly condemned the bill. After a brief discussion and explanation about the situation I conducted a straw poll of the golf club members. Only one person opposed the amending legislation. The general feeling was, 'If that's the case, that's okay'. That demonstrates that education is the key and that the old Australian cultural attitude about giving people a fair go is alive and well.

The bill brings transgender people under the umbrella of the Equal Opportunity Act and extends to them what we all take for granted — that is, protection from discrimination. As a white, straight male I have never suffered a great deal of persecution or discrimination. I find it hard to understand how bad it must be for some people. However, I know that nobody should be subjected to any form of discrimination. The bill will improve the lot of many people.

Transgender Victoria recommended certain changes to the bill. It suggested we should recognise that in some areas, such as sport, transgender people would have an unfair advantage if antidiscrimination measures applied across the board, particularly in those sports that require greater strength or durability. The lobby was happy to have such circumstances excluded so that positive discrimination applied. That goes some way towards demonstrating their good faith and that they have been sensible in their negotiations.

Earlier Mr Olexander and Mr David Davis said they had been pressured into accepting certain changes. I do not believe that is true. It is a shame they cannot speak for themselves, but no pressure was applied on Transgender Victoria to accept certain changes to the bill. At the end of the day the group was happy to support the legislation. Section 25 takes care of discrimination against children. The opportunity exists to protect children who may, in some circumstances, have difficulty confronting certain situations. Transgender Victoria is happy to accept that that part of the act protects children. It should be mentioned that some transgender people have their own children. It is logical to assume that they should not in any way be inclined to harm children physically or psychologically. It has been said that some parents may not want transgender teachers teaching their children. A number of transgender teachers in New South Wales and Victoria successfully teach children in schools; neither they nor the children have any problem with that. And that being the case, honourable members should not have any problem with it, either.

The bill is not perfect. Transgender Victoria wants further changes and other organisations want further amendments; some would prefer no change. But as is the case with politics, the issue is all about compromise. All parties are reasonably pleased with the compromise and with further education. The fears of some will be alleviated and amendments will be developed. Transgender people deserve and should be given a fair go, and the bill will achieve that aim. Proposed section 27B in clause 6 includes those areas where people can address the problems associated with employment and transgender.

In conclusion, as I said, the bill is not perfect, but as Chairman Mao said, the march of a thousand miles starts with the first step. The bill is the first step, and I wish it a speedy passage.

Sitting suspended 6.31 p.m. until 8.07 p.m.

Hon. M. T. LUCKINS (Waverley) — I am pleased to have the opportunity to speak on the bill. It was my great privilege to meet representatives from the transgender community prior to the house debating this bill. I met these people to find out first-hand about the issues and challenges they face in the community. Whether the challenges are biological or psychological is irrelevant; the people who choose to change their gender deserve to be supported by our community. Speaking with these people I got the distinct impression that they felt trapped by the bodies of their birth. The decision to undergo gender transition is not made lightly; often it is made after many years of consideration, consultation and reflection by the individual.

I have had my horizons broadened as a member of Parliament having had the opportunity to investigate the provisions of this bill. I heard first-hand from representatives of the transgender community about the impact of the momentous decision to change their sex and how they are perceived and treated in our community. The root of all discrimination is ignorance and intolerance. Many in society feel threatened by people who are different — people who do not conform to one's perception of normality.

In 1995 the Kennett government, through Jan Wade as Attorney-General, introduced legislation that became the Equal Opportunity Act. That act prohibits discrimination on the following grounds: age, impairment, industrial activity, lawful sexual activity, marital status, physical features, political belief or activity, pregnancy, race, religious belief or activity, sex, and status as a parent or carer.

The Labor Party in government amended the act to deal with breastfeeding. During the debate on that amendment I highlighted my view that the Kennett government's 1995 act covered all facets of discrimination against individuals in the community. However, I reiterate what I said at the time — that is, any measure to promote antidiscriminatory behaviour in the community must be applauded and supported.

Section 23 of the Equal Opportunity Act deals with an exception in relation to reasonable terms of employment. It states:

> An employer may set reasonable terms or requirements of employment, or make reasonable variations to those terms or requirements, to take into account —
>
> (a) the reasonable and genuine requirements of the employment;
>
> (b) any special limitations that a person's impairment or physical features imposes on his or her capacity to undertake the employment;
>
> (c) any special services or facilities that are required to enable him or her to undertake the employment or to facilitate the conduct of the employment.

Section 24 deals with an exception in relation to with standards of dress and behaviour. It states:

> An employer may set and enforce standards of dress, appearance and behaviour for employees that are reasonable having regard to the nature and circumstances of the employment.

Most importantly, section 25 relates an exception in relation to the care of children. It states that an employer discriminate against an employee if:

> (a) the employment involves the care, instruction or supervision of children; and
>
> (b) the employer genuinely believes that the discrimination is necessary to protect the physical, psychological or emotional wellbeing of children; and
>
> (c) having regard to all the relevant circumstances, including, if applicable, the conduct of the employee or prospective employee, the employer has a rational basis for that belief.

From speaking with representatives of the transgender community I am aware of the use of that provision to actively discriminate against individuals in the community who have chosen to change their sex.

There is no doubt that transgender and intersex people are among the most discriminated against in the community. I refer to the following statistics on transgender people: 22 per cent are unemployed, 50 per cent have experienced problems with the police, 21 per cent have been bashed in a public place and 56 per cent have experienced problems relating to the provision of goods and services. Those figures are based on a study by the Victorian Gay and Lesbian Rights Lobby, the results of which were published in a report entitled *Enough is Enough*.

In 1994 Roberta Perkins published an Australia-wide report entitled *HIV/AIDS — Needs of Transgender People*. Ms Perkins was undertaking a masters degree in New South Wales at the time. She found that 95 per cent of transgender people lose their jobs on transitioning, 38 per cent attempt suicide and 52 per cent become isolated.

There is absolutely no doubt that there is a great intolerance and misunderstanding in the community of the needs of people who choose to change their sex. I cannot envisage what it would be like to feel trapped in and dismayed by your own body. The decision to change is not taken lightly. It is taken often with the support of family and friends. Often the person feels isolated in his or her own decision, but it is a decision of the individual and members on this side of the house have always supported the rights of individuals to make determinations about their own futures.

Intersex individuals, those of indiscriminate sex or children born with both male and female organs at birth, are particularly vulnerable to discrimination at school and from the wider community. Since the introduction of the bill in the other house I have pondered how I would feel as a parent if one of my children had been born intersex. It would be onerous for parents to have to decide whether to choose the gender of a baby very early after birth and have surgery to make sure the child had only one sex. I have come to the conclusion that if one of my children were affected I would probably leave the child as it was and wait to see what the child wanted. It would be a difficult decision for parents to make. The fact is that regardless of whether the need to change is psychological, hormonal or physical, any person who decides he or she relates better to the other gender needs the full support, understanding and acceptance of our community.

I have always been a strong advocate for women's affairs and for antidiscrimination legislation when anyone is discriminated against, whether it be on the grounds of disability, race, religion, gender or preference. Throughout the community there are small-minded people who are ignorant of the issues. Such people are easily threatened by people who do not conform to their view of society. In my experience of dealing with friends who are either lesbian or gay, deciding to follow that path is not a decision that is

taken lightly, nor often is it a deliberate decision. Given the discrimination such people have to live with on a daily basis no-one would deliberately decide to become gay or lesbian.

Some lesbian and gay people would not be known as or seen to be gay or lesbian by the wider community. They look normal; they look like you or me. But those who feel trapped within their own gender and who seek to have that rectified by becoming a member of the other gender are a little more obvious in the community. They are also less understood and less accepted, and that is a great pity. I am happy therefore to support the legislation, even though I believe the provisions of the 1995 act covered any discrimination that takes place in Victoria.

I am very pleased to have met with the representatives of Transgender Victoria and to have had them open my mind to the many challenges, obstacles and hurdles they face in their daily lives. It was interesting to speak to some of the representatives about their experiences. I asked one person who had changed from male to female whether she had found she was treated any differently after the change. She said that once she became a female she was discriminated against, which I found most interesting, because it happens to me all the time. I have been discriminated against in car yards and in other typically male environments in the community.

Hon. A. P. Olexander — In the chamber!

Hon. M. T. LUCKINS — In the chamber, indeed, Mr Olexander. Having been discriminated against in the chamber this evening during debate on the bill, which was inappropriate, unfortunately I find it not at all surprising that people who choose to change from male to female are still discriminated against in the community, in this instance because they are now perceived as female. The community has a long way to go if it is to be a tolerant, caring and supportive society for all of its members. The rights of individuals to make choices in life has to be respected, and people must be supported in their choices. That is part of the basic philosophy of the Liberal Party.

Many people are small-minded and ignorant and feel threatened because they do not understand. I accept that, but the bill is part of the educational process for the community, although I believe the situation was covered in the previous act.

Clearly members of the transgender and intersex community are still being discriminated against because the act was not publicised enough. If the bill manages to promote the rights of these marginalised groups of individuals in our community it is worth the debate. I support the bill and wish it a speedy passage.

Hon. K. M. Smith — Mr Deputy President, I draw your attention to the state of the house.

Quorum formed.

Hon. S. M. NGUYEN (Melbourne West) — I am delighted to speak on the Equal Opportunity (Gender Identity and Sexual Orientation) Bill, which meets one of the commitments made by the then Bracks opposition before the election and will now deliver on that promise to the community. The bill will help the Victorian community. The government went through all the issues relating to equal opportunity. Not long ago Parliament debated the breastfeeding bill that supported women, now we are debating gender identity and sexual orientation.

We are entering the 21st century, and we must live together in a changing world. It does not matter where one comes from or where one lives, we should try to put our differences aside and as a community respect one another.

The bill refers to discrimination against gay, lesbian and transgender people. Many newspaper and other media stories in the past have shown that if one does not look normal one may be harassed by others in public places, such as at bus stops or railway stations. Sometimes such people are harmed.

The government recognised the chance to change the act, and this bill will protect every individual. Some time ago a bill was introduced in Tasmania by the then conservative government that tried to ban certain acts. This bill will not only protect people regardless of their sexual orientation but give them a fair go wherever they are.

The Victorian Gay and Lesbian Rights Lobby has recently released a report entitled *Enough is Enough — A Report on Discrimination and Abuse Experienced by Lesbians, Gay Men and Transgender People in Victoria*, which documents the results of a survey of 929 members of the lesbian, gay, bisexual and transgender communities in Victoria concerning their experiences of discrimination and abuse.

It reported that 84 per cent of participants had experienced at least one form of discrimination and abuse. Of those reporting discrimination or abuse, 79 per cent had experienced it in relation to assault or harassment in a public place, followed by 48 per cent experiencing discrimination or abuse in employment, 31 per cent in education, 28 per cent in the provision of

goods and services, 27 per cent in relation to medical treatment, 20 per cent in relation to police and other law enforcement, 16 per cent in relation to parenting, 14 per cent in relation to club membership and 11 per cent in relation to tenancy. That is a high number of people who have suffered because of discrimination.

An estimated 95 per cent of people who make the transition from one gender to the other lose their jobs because of that transition. That is a high percentage. Only 5 per cent hold their jobs, which means members of the transgender community have a higher risk in the employment area. People are still negative about them.

The Equal Opportunity Act prohibits discrimination on 13 grounds in areas of public life such as employment, education, the provision of goods and services, accommodation, club membership, sports and local government. The principal act also refers to unlawfully discriminating against someone on the basis of age, impairment, industrial activity, lawful sexual activity, marital status, physical features, political belief or activity, pregnancy, race, religious belief or activity, sex, parental or carer status or personal association with a person who is identified by reference to any of the above attributes. Breastfeeding is also referred to in the act.

Many communities referred to in the bill seek protection from the government. Everyone has a right to go to work, public places, clubs and societies without being discriminated against. The situation today can be compared with that of 10 years ago. Many changes have been brought about by community awareness.

The government is trying to ensure there is no violence in the community. It will not tolerate anyone doing harmful things to people who are different in any way. Many times on television I have seen people killed because of the way they looked. The bill will educate the community to accept everyone and to have an open mind. There is great community awareness in my electorate and everyone has the right to do what they believe is right. There is more work to be done, but the bill is the first step of the Bracks government's commitment to ensure everyone has equal opportunities. I support the bill before the house.

Hon. ANDREA COOTE (Monash) — I am honoured to speak on the bill. Monash Province has a large homosexual community that provides a rich and diverse culture to the electorate. There are many transgender people who I wish to thank for their assistance while undertaking research for the bill.

Many honourable members have spoken in detail about the detail of the bill. The Honourable Carlo Furletti went into explicit detail on its structure. As he and many others have said, clause 1 sets out the purpose of the bill and amends the Equal Opportunity Act to prohibit discrimination on the basis of gender identity or sexual orientation.

Clauses 2 and 3 deal with the detail of the bill and clause 4 inserts the definitions of 'gender identity' and 'sexual orientation' into the act. Clause 5 also deals with the technicalities of the bill. Clause 6 inserts a new exception in the principal act and clarifies the issue of employment for transgender people. That inclusion will enable employers to discriminate if they do not get adequate notice of the person's changed identity or if accommodating those changes will be unreasonable. I have some difficulty with the term 'unreasonable' because it can so easily be misconstrued.

Clause 7 deals with issues relating to sport. This issue needs to be clarified for the benefit of both the sporting community and transgenders. I am pleased to see that it is not unlawful to exclude a person on the basis of gender identity from participating in a competitive sporting activity in which strength, stamina or physique is relevant. As other honourable members have said in the debate, this clause will bring Victoria into line with all other states except Queensland. Clause 8 also deals with the technicalities of the act.

I am honoured to have the opportunity to speak on the bill because as I have explained to the house on previous occasions I find discrimination of any kind abhorrent. The transgender members of the community are among the most discriminated members of society. I emphasise that this condition is not a matter of choice. At the risk of appearing melodramatic, it is frequently a matter of life and death. I have been informed that suicide is an option considered by many people facing the complex issue of gender identity.

Discrimination is often worst when there is a lack of understanding of an issue, or alternatively when a person does not have detailed information. I admit to the house that there were some details about transgenders and transsexuals that I did not understand until I began to undertake research on the bill. I will share with the house some of the information I found, because the issue is confusing and complex and there are questions we do not like to ask or do not feel we should ask.

The word 'transgender' is an umbrella term that includes transsexuals. Transsexuals are people who believe they are psychologically a member of the

opposite gender from that which they are biologically born. That includes people who change from female to male as well as, more commonly, those who change from male to female.

A cross-dresser, formerly called a transvestite, is someone who dresses in clothing of the opposite gender for emotional satisfaction. I acknowledge the excellent work of Seahorse Victoria, a support organisation for cross-dressers and the transgender community. I thank Paul Corbett for the advice he gave me on this sensitive and personal issue.

A person of indeterminate sex is someone who is born without being clearly either male or female, and includes the following: hermaphrodites, who are born with equal male and female chromosomes and have both male and female genitalia; pseudo-hermaphrodites, who have 46 XX female or 46 XY male chromosomes and are anatomically mixed between the genders; people with Klinefelter's syndrome, who have 47 XXY chromosomes and are biologically mixed between genders; and people with Turner's syndrome who have 45 XO chromosomes and are biologically and anatomically mixed between the genders.

I ask honourable members to consider what it would be like following the birth of a baby to face a situation like that. It is something honourable members have probably never thought about. However, it is something I thought about when undertaking research for the bill. I feel for people born that way. It is imperative that as a community we sensitively address the issue, which would be horrifying, to say the least.

I am concerned that the bill does not deal with intersex people who do not wish to have reassignment surgery and who wish to live as an intersex individual. The bill does not deal with such people, who must be among the most discriminated and most vulnerable in the community. I hope the government will address the issue very soon, and as the Honourable Andrew Olexander said, that issue should have been included in the bill.

I have learnt a great deal from the transgender community and I acknowledge the excellent work of Kayleen White and Sally Goldner, who answered the most intimate questions with an openness and frankness I really appreciated. There have been many allegations and many myths about transgender people being sexually deviant. I refer to the Transgender Victoria political education sheet of November 1999, which states:

> It should be clearly understood that being transgender is not a form of sexual or other deviancy. When a female-to-male transsexual (that is, someone who was born female, but considers that they are male and are changing their lifestyle and body to be consistent with that) goes to the male toilet, that is not motivated by an expression of sexuality or a desire for sexual gratification, he simply needs to relieve himself. When a male-to-female transsexual changes her name, that is not done for sexual gratification or primarily as an expression of sexuality, it is a matter of adopting a lifestyle consistent with the gender they know they are.

It is important for us to know that and not to get caught up with the hysteria that surrounds these issues.

One of the transgender people I met said to me, 'I would not wish this on my worst enemy'. I found that the decision to make the transition was done with a great deal of anguish and in so many cases was a very lonely decision. My heart goes out to them.

Transgender Victoria provided me with some excellent material. Much of it has been referred to in the debate. The latest evidence suggests that at least 45 per cent of transsexuals are female to male. This condition is known as transgender dysphoria. Being transgender is not a matter of choice and the decision to make the transition — to begin to live as a member of the gender to which one feels one belongs — is not an easy one.

The process for transsexuals is referred to as gender reassessment. It is a rigorous procedure involving two years living in the desired gender role while being assessed regularly by a panel of psychiatrists prior to being approved for the appropriate surgery. It is not something taken lightly or done on a whim, and I hope members understand that.

As has already been said, it is sad to know that more than 36 per cent, a large number, of transgender people have committed suicide. That is totally unacceptable. I refer to an expert in transgender issues, Dr Trudy Kennedy from the Monash University gender dysphoria clinic, who states:

> Please quote me as saying that transgender people need to live in the gender which they feel consistent with their sense of self-identity:
>
> 1. to enhance their sense of wellbeing;
>
> 2. to help them adopt a healthy and well-integrated approach to everyday life;
>
> 3. it is part of the 'real life test' which is the internationally accepted standard for the acceptance of the transgender condition;
>
> 4 to achieve the 'real life test' it is imperative for them to work in the gender to which they want to be reassigned.

In Australia we have a fundamental belief that people have the right to live their lives as individuals, but transgender people are some of the most discriminated against in the community. The discrimination is appalling. I give two examples of discrimination. One of them is a personal explanation, and it is touching to hear just how hard it has been for that person. I quote from the Transgender Victoria letter of November 1999 from Kayleen White which refers to Pippa Reeves. It states:

> Pippa's experiences show some of the worst that can happen to transgender people, including threats of physical assaults.

I remind honourable members that many transgender people are bashed because of their sexual orientation.

> Although a competent technician, with nearly 20 years of continuous experience in six positions, transition two years ago led to loss of her job. Since then Pippa has applied for 147 jobs, attended 36 interviews, has been offered 2 jobs, and has only worked 1 year. (She has had one job offer later withdrawn.) She was hired by one company in January, but was told that her services were no longer required at the start of March. Pippa is very lucid on the difficulties of applying for jobs, including the need to change resumes (particularly previous referees) …

Just think of that. How difficult would that be! It would be particularly difficult for people who have had referees to change their referees. We must think about those issues of discrimination.

The document goes on to say that transgender people have enormous difficulty in finding accommodation, particularly when a previous landlord is behaving in a strongly prejudicial manner and the person is suffering the effects of not been employed.

Statistics have been referred to by other honourable members, including Ms Romanes and Ms Carbines, and I wish to reinforce some of them. I refer to the report known as *Enough is Enough* from the Gay and Lesbian Rights Lobby, which indicates that 22 per cent of transgender people were unemployed; 50 per cent had experienced problems with police; 21 per cent had been bashed in a public place — that is totally unacceptable — and 56 per cent had experienced problems relating to the provision of goods and services. I ask honourable members to consider what it would be like to be discriminated against in the simple things that many of us take for granted.

I have said before that I have spoken at length with Dr Trudy Kennedy from the Monash University gender dysphoria clinic. I call on the government to do more than just pay lip-service to the transgender issue. Dr Kennedy told me that Victoria has some of the best surgeons in this discipline in the whole world and that La Trobe University is recognised worldwide for the research work it has done.

I am saddened to learn that some of the people who want female-to-male operations have had to travel to Bangkok to get treatment. That is not acceptable. Instead of just implementing the legislation, although it is a step in the right direction, I call on the government to provide funding to enable comprehensive research to be conducted. It is imperative that we have research that will enable us to understand the issue better and to ensure a better quality of life for transgender members of our community. La Trobe University has taken the initiative. It is now up to the government to put its money where its mouth is.

I have great concerns about some of the methodology used in this legislative process. That has already been alluded to. Some members of the transgender community feel pressured and bullied because they have had to accept the government's amendments.

I hope as a community we look at the transgender community sympathetically. I will carefully monitor the impact of the amendments the government has introduced under pressure from the Independents.

Hon. JENNY MIKAKOS (Jika Jika) — I will be brief in my comments because a number of members of the government have covered the bill in some detail and explained why the government has introduced it. A number of government members spoke about the context in which the bill has been introduced and discussed, for example, the findings of the report entitled *Enough is Enough.* They have referred to the level of discrimination that is faced by transgender people, particularly in the area of employment, and the high level of suicide contemplated by members of the transgender community.

Without going over that material again, I emphasise that it is in that context of discrimination and problems faced by this sector of the community that the government decided to implement its pre-election commitment to end discrimination and victimisation of transgender people by introducing the legislation.

I am pleased to speak in support of the bill. It is groundbreaking legislation. From the correspondence I have received it is clear that some members of the community have been concerned about some aspects of the bill.

I believe the concerns raised by those members of the community have been based on misinformation and ignorance and I hope the passage of the bill will lead not only to a greater level of education among members

of Parliament, as we have seen tonight, but also among members of the community generally.

At this point I commend honourable members. Generally, the debate has been of a high standard and to a large degree that is due to the Transgender Victoria organisation, which I know has worked hard to provide members of Parliament with information about the problems experienced by members of the community and about various aspects of the bill. I commend Transgender Victoria, and in particular I place on the record my thanks to the co-convenor of Transgender Victoria, Ms Kayleen White, for engaging in discussions with me and other government members in the provision of important information on the bill.

I do not want to go in detail over the points made by opposition members during the debate. I note that the Honourable Andrew Olexander raised a number of issues, some of which are valid in terms of people of indeterminate sex and perhaps the need to further look at the legislation in the future. I accept those points raised by the honourable member and also note the number of points he made about the liberalist tradition of the Liberal Party. Some of his colleagues were perhaps not as enthusiastic about the bill as he was, and I am pleased that members of the Liberal Party have been prepared to support the passage of the legislation tonight. The Liberal Party, of course, had a number of years in government.

Honourable members interjecting.

Hon. JENNY MIKAKOS — I should add that the Honourable Maree Luckins said there was no need for the bill because the current Equal Opportunity Act covers discrimination against transgender people, something on which she is mistaken. I hope the debate tonight will go a long way to redressing the lack of information that some opposition members have on the legislation.

As I said earlier, I do not want to go over the bill in detail as I believe a number of government members have done so more than adequately. The bill is significant in that it introduces two additional attributes to the Equal Opportunity Act which will prohibit discrimination on the basis of sexual orientation or gender identity.

In his comments on sexual orientation the Honourable Roger Hallam referred to the view of the National Party that the Equal Opportunity Act currently covered discrimination against homosexuals, bisexuals and lesbians, and that the government was in fact pandering to the concerns of the homosexual lobby in introducing the amendment. For the record, I refute that assertion and note that apart from Victoria, only Queensland still uses the term 'lawful sexual activity' in its equal opportunity legislation. While the term has been interpreted broadly by the Equal Opportunity Commission and the Victorian Civil and Administrative Tribunal (VCAT) in the past in order to provide homosexuals, bisexuals and lesbians with adequate protection, it fails to recognise that those people face discrimination because of their sexual identity and not because of their sexual practices or activities. It is for that reason that the government is of the firm view that sexual orientation rather than sexual activity is the more appropriate term to be included in the Equal Opportunity Act.

Hon. R. M. Hallam — Why didn't you take 'lawful sexual activity' out of the act?

Hon. JENNY MIKAKOS — I will explain that to you, Mr Hallam. There may well be situations, for example, involving a prostitute who is engaged in lawful sexual activity in a brothel and who could be the subject of discrimination. The government has decided to keep the reference to lawful sexual activity in the Equal Opportunity Act to cover those possible scenarios.

Hon. C. A. Furletti — Have you another example?

Hon. JENNY MIKAKOS — On the basis of the addition of the attribute of sexual orientation in the act, and the view that it is not conferring an additional right on anyone, the government has been prepared to make discrimination on the basis of sexual orientation retrospective in nature, although it will not apply to people who have currently lodged a complaint with the VCAT.

I turn now to the addition by clause 5 of the attribute of gender identity in the act. By including in the equal opportunity legislation a prohibition against discrimination against transgender people, the amendment will bring Victoria into line with all other states, except Queensland. I understand that Victoria will, through the legislation, possibly be the leading jurisdiction in the sense that the definition of gender identity is broad and includes people of indeterminate sex. It also includes people who are cross-dressers, if I can use that term, and it is for that reason that Victoria will lead the way Australia wide in tackling the discrimination faced by transgender people.

I use the term 'transgender people' in a loose sense. It is included in the act, and is a fairly broad definition that includes people such as transsexuals, transvestites,

cross-dressers and hermaphrodites. It is for that reason that the term 'gender identity' has been used in the act rather than referring to each particular instance separately.

As a result of discussions with the honourable member for Mildura in another place, an alteration was made to the original draft of the bill to include the term 'bona fide'. The act will protect a person who has adopted on a bona fide basis the gender other than the gender in which he or she was born.

That was intended to address issues raised by Russell Savage, the honourable member for Mildura in the other place, who was concerned about people who cross-dress on a social basis and who have not adopted seriously a gender other than the gender with which they were born. The alteration to that definition should in no way water down the effect of the operation of the bill.

I turn now to comment on the exceptions included in the bill, which seem to have taken up most of the debate. Clause 7, which relates to a sporting activity exception, builds upon a current exception contained in section 66 of the Equal Opportunity Act, which allows a person to be excluded from participating in a competitive sporting activity in which the strength, stamina or physique of competitors is relevant. That section will be amended to make it not unlawful to exclude a person from so participating in a competitive sporting activity on the basis of gender identity.

A more significant exception in the bill is contained in clause 6, which relates to employment. As I said earlier, a number of alterations were made to the bill following concerns being raised by the honourable member for Mildura. I accept that the inclusion of clause 6 in the bill is less than ideal, particularly in view of a number — —

Hon. A. P. Olexander — You got rolled, did you?

Hon. P. A. Katsambanis — Did you speak against it in your party room?

Hon. JENNY MIKAKOS — Settle down.

The DEPUTY PRESIDENT — Order!
Mr Katsambanis will have his opportunity in a moment.

Hon. P. A. Katsambanis — Did you support it or oppose it in the party room?

The DEPUTY PRESIDENT — Order!
Mr Katsambanis!

Hon. JENNY MIKAKOS — The bill amends a number of current exceptions contained in the act relating to employment. However, I do not accept the assertion that has been made by a number of opposition members, particularly the Honourables Andrew Olexander and David Davis, that members of Transgender Victoria were pressured into accepting amendments. They are free to criticise the inclusion of clause 6 in the bill if they so wish. No trade-off ensued as a result of the inclusion of that clause. As opposition members are aware, the government is committed under a charter with the Independents to engage in consultation with them when they express concerns about the government's proposed legislation. The government also engaged in a process of consultation with Transgender Victoria during the course of discussions with the honourable member for Mildura.

I hope few employers will seek to have recourse to the new exception in proposed section 27B relating to gender identity and employment. When the exception is sought to be used the onus will be on the employer to demonstrate that discrimination is reasonable in the circumstances.

I understand that the Equal Opportunity Commission will be consulting with Transgender Victoria and other interested stakeholders in developing guidelines to be issued by the commission for the information of both transgender people and Victorian employers as to how the bill will operate in practice. In my view such a process of education will be a significant factor in alleviating that type of discrimination in the future. I hope the guidelines to be issued by the Equal Opportunity Commission and the education campaign it will engage in will assist transgender people to enjoy many aspects of life — for example, having jobs and renting houses — that many of us take for granted will be provided to us free from discrimination. I have to accept that some members of the community have accused the government of social engineering in introducing the bill. I do not have a problem with social engineering if what it does is compel through a legal sanction public education and the end of discrimination caused by misinformation, prejudice and hatred.

I welcome the introduction of the bill. I commend the Attorney-General for his determination in seeing its passage through. I know from discussions with Kayleen White and Transgender Victoria that there are many other issues they would like to see addressed, such as the issue of birth certificates for transgender people who are either awaiting gender reassignment surgery or even those who are not contemplating having such surgery. The government is committed to redressing discrimination against all members of the community.

It will be reviewing the adequacy of the current equal opportunity legislation during the current term of the Parliament. I hope to see more work done and more legislation developed by the government in the future to address remaining areas of discrimination.

I am very proud to be able to speak in support of the bill. I hope its passage will assist members of the transgender community to participate in the community free of discrimination and to deal with the many difficulties they face when going through the transition process of adopting a new gender identity. That is a very difficult process for any person to go through. I hope the bill will go a significant way towards making life a lot easier for them during that process. I commend the bill to the house.

Hon. P. A. KATSAMBANIS (Monash) — As I rise to speak on the bill, I cannot help but reflect that it would be much better legislation had the house received the bill originally presented to the other place. Although I had a number of reservations about its original form, the bill before us highlights the fact that in the short space of time between the Attorney-General's decision to introduce the Equal Opportunity (Gender Identity and Sexual Orientation) Bill and its arrival in this house, equal opportunity has gone backwards rather than forwards.

The issue highlights that the government is not about leadership or redressing wrongs, whether real or perceived; it is about compromise, minimising angst in various areas and selling out principle for expediency. Any government member who cares to reflect on the comments I have just made will realise that the bill encapsulates the principle of selling out for expediency — in this case, the expediency of satisfying one Independent member in the other place at the expense of much needed good legislation.

Despite all that, the bill is an improvement on what is contained in the act. It remains to be seen whether that is good, but in truth the government has reneged on its commitment. Its initial commitment was evident in the original bill. However, the final version now being debated reveals the emperor's new clothes for exactly what they are.

Unfortunately equal opportunity is a misunderstood area in the community. From what I can discern there are two prevailing schools of thought about what equal opportunity means. One school of thought appears to imply that the concept of equal opportunity in some way, shape or form introduces special rights to select groups of individuals. I have made it clear during my time in this place that I oppose singling out groups for special rights or to allow legislative privileges to be bestowed on one group of people versus other groups. That is not what equal opportunity is all about, and that perception in some parts of the community should be corrected.

The other prevailing idea of equal opportunity that I and Liberal Party members favour is a concept where all individuals in society are afforded a set of rights under which they can live their lives. That would be afforded to them irrespective of any difference in colour, creed, religion, the football team they follow — if you want to reduce it to that banal level — and certainly irrespective of sex, sexual orientation and gender identity. I welcome the parts of the bill that advance that concept. I repeat that I would have welcomed the opportunity to have supported a bill that further advanced such concepts, unlike the bill that has gone backwards in its short life span in the two houses.

I support the concept of equal opportunity, of true equality irrespective of differences. Every individual has a right to live a life free from discrimination, blame or finger pointing because of a difference in his or her make-up. The Liberal Party has advanced that concept of equal opportunity almost since its inception, and its record is a proud one.

My parliamentary colleagues who have contributed to the debate — the Honourables Carlo Furletti, Andrew Olexander, David Davis, Maree Luckins and Andrea Coote — have made it clear that the Liberal Party has a strong and proud record in equal opportunity. I commend my colleague the Honourable Andrew Olexander on his contribution, which will go down as one of the real benchmarks or hallmarks of the Liberal Party's commitment to equal opportunity in Victoria and Australia. I congratulate the honourable member.

In my electorate the concepts of gender identity and sexual orientation are not some nebulous concepts or something that is untouchable, full of fear or needs to be thought of in the abstract. The issues of gender identity and sexual orientation are a day-to-day reality in my electorate. Individuals who have suffered discrimination because of their gender identity or sexual orientation are not individuals about whom one hears or reads about or finds out about from talking to other people; rather, they live in and make a strong contribution to the community. Their contributions are valued not only because of what they do but because of the individuals they are. I am proud to work and live in and represent a community that is prepared to wholly accept every individual as an individual.

I place on the record with pride that daily I come across transsexuals who were born with gender identity conflicts — be they hermaphrodites or the like — and that I number some of those people among my associates and friends. It is not something that the people of my province think of as an abstract concept. It is something we live with as a day-to-day reality and we do so very well in a spirit of harmony, tolerance and acceptance that is the hallmark of an open and inclusive Australia.

In some ways the bill addresses the almost systematic discrimination that has been unfortunately visited upon some of those people over a long time. I will not belabour the issues that my colleagues have covered; I simply point to the issues in the bill that concern me. The contributions of my colleagues and even those, in the main, of members of the government highlighted the positive benefits of the legislation.

The definition of 'gender identity' concerns me. In the initial incarnation of the bill the government, whether by accident or design, got it about right. However, the inclusion of a number of amendments to the definition of 'gender identity' in clause 4(1)(a), especially the phrase 'on a bona fide basis', greatly concerns me. During my four years as a member of this house I have seen quite an amount of legislation debated, but I have never seen a piece of legislation in this place that imposes the burden of proof on 'a bona fide basis'. It is almost akin to accusing people of not being bona fide.

Had the people who drafted this cobbled-together amendment to satisfy one Independent member of the other place come across real people who suffer gender identity, conflict and discrimination they would have realised that the inclusion of the term 'on a bona fide basis' is not only a misinterpretation and misrepresentation of the issues but an insult to people. It is accusatory and I think the government should be held to account for it.

The other issue that goes with this point of the bona fide basis is how it is likely to be interpreted. I do not think the question of what a bona fide basis for claiming discrimination because of gender identity is has been tested legally. I ask the question: will it lead to a situation of someone who claims discrimination on this ground being cross-examined as to whether their issue of gender identity — be it transsexuality, being a hermaphrodite or some other form of gender dysphoria — is actually bona fide? Will it lead to cross-examination of that person as to their bona fides? What is the government trying to get at?

In other areas of the law, particularly in issues relating to sexual offences, victims often complain that the legal process involves a cross-examination of them rather than the accused. I would welcome the minister at the table allaying my fears if he is able to do so, but I fear that this inclusion of a bona fide basis might lead us down a path in equal opportunity whereby the victim rather than the alleged perpetrator becomes the subject of cross-examination. I highlight that to the house as an area where I think the government has simply caved in to the pressures of one individual at the expense of good legislation.

I view fairly clearly the issue of whether sexual orientation is covered in the current act. Some people have made the point that the term 'sexual orientation' may or may not be covered by the term 'lawful sexual activity'. I am satisfied that if there is a concern or a question mark, there will be no problem in legislating to take away that question mark and make the area clear. I am quite comfortable with the inclusion of that provision. I wish to make that point to the house at this stage.

Clause 6 of the bill deals with the exception of gender identity and the grounds upon which an employer may discriminate against a person on the basis of gender identity. This is another compromise cobbled together to satisfy one individual, and it opens up a can of worms. Significant exceptions are already included in the Equal Opportunity Act, and I would argue that those exceptions are enough. They cover all the grounds of discrimination available under the act and to single out the issue of gender identity for a very specific exemption such as the one introduced in clause 6 smacks of expediency and of compromising principle for the purpose of short-term political gain — possibly simply the continued support of one particular person. This again highlights the risks of subjecting the legislative process to the control of one or two individuals who have been elected on a narrow mandate.

As with the issue related to the definition of gender identity, I fear the consequences of any actions brought under the heading of discrimination on the basis of gender identity and how this exception — which will be contained in section 27B of the act if and when this bill is passed — will be interpreted. I also fear what impact it will have on individuals who might wish to bring an action for discrimination but will be essentially precluded from doing so because of the existence of this clause. There will be a barrier that they will believe cannot be overcome. I fear that this exception clause will act in the same way as the question of whether sexual orientation equals lawful sexual activity did in

stopping many people from bringing actions they might otherwise have wished to bring under the act. I fear that this exception clause will effectively deny people the opportunity to seek redress for discrimination perpetrated against them.

The only other issue I shall highlight to the house has been highlighted by some of my colleagues, especially the Honourable Andrea Coote, my fellow member for Monash Province. It relates to the specific definition of gender identity. On my reading of the bill, the definition seems to include a person of indeterminate sex who chooses to live as one sex or the other, but it does not include a person of indeterminate sex who chooses of his or her own free will not to make a finite determination whether to be male or female but to continue to be of indeterminate sex. It is a small but important point. As other honourable members have pointed out, people of indeterminate sex are, if not the most discriminated against people in society, certainly among the most discriminated against people in society simply because the community has little understanding of the issues relating to them.

For the government to bring in legislation that covers some but not all of the issues relating to people of indeterminate sex is a failing. It was a failing of the original bill introduced in the other place. When the bill was introduced it was hoped and thought that that might be corrected in the process. However, as I said at the start of my contribution, instead of going forward in that process this government has gone backward. Instead of enhancing the cause of equal opportunity in the areas of gender identity and sexual orientation the government has taken one, two or three steps backwards. Given that this is a new government with a supposed mandate to introduce changes in this area I do not hold my breath hoping that things will get any better in the next few years.

In closing, the last point I wish to make has been highlighted by my colleagues. It is the continual discussion I hear about the fact that after striking this mealy-mouthed compromise the government effectively pressured or bullied people in the transgender community to either accept this bill or to go quietly. Those sorts of stories concern me. They strike at the heart of the legislative process and democratic system because if this government, which mouths platitudes of openness and accountability, is prepared to bully certain groups in the community into accepting its flawed legislation, it is a sad day for democracy in Victoria and the government should be held to account for it.

It saddens me, as it does my colleagues, to have to raise the issue tonight. However, it is important to highlight to the people of Victoria that if this is how this fairly new government, which still has quite a while of its term to go, intends operating, Victorians will need as much help as they can get.

As I said at the start of my contribution, I would prefer not to be debating this bill. I would prefer to have debated the bill which was originally produced in the other place and which in a perfect world Parliament would have since enhanced. The bill is a compromise and insofar as it is positive in seeking to redress discrimination in the areas of agenda identity and sexual orientation, I support it. On the other hand the bill highlights that the government is not on the right track. The government should be governing for all Victorians with principle, morals and commitment to the cause about which it mouths platitudes rather than running away at the first sign of dissent from minority groups or individuals and coming up with half-baked compromises.

Motion agreed to.

Read second time.

Third reading

For **Hon. M. R. THOMSON** (Minister for Small Business), Hon. J. M. Madden (Minister for Sport and Recreation) — By leave, I move:

That this bill be now read a third time.

I thank honourable members from both sides for their considered contributions: the Honourables Carlo Furletti, Glenyys Romanes, Roger Hallam, Elaine Carbines, Andrew Olexander, Dianne Hadden, David Davis, Bob Smith, Marie Luckins, Sang Nguyen, Andrea Coote, Jenny Mikakos and Peter Katsambanis.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

JURIES BILL

Council's amendments and Assembly's amendment

Message from Assembly relating to following Council amendments considered:

1. Clause 68, line 20, omit "(3)" and insert "(2)".

2. Schedule 1, page 63, after line 16 insert —

"6. A person who is released on bail.".

Assembly's message:

Council's amendment 1 agreed with.
Council's amendment 2 disagreed with but following amendment agreed to:

'Schedule 1, page 63, after line 16 insert —

"6. A person who has been charged with an indictable offence and is released on bail in respect of that offence.".'.

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

That the Council do not insist on their amendment with which the Assembly have disagreed and agree to the amendment now made by the Assembly in the bill.

Briefly, the government is proposing another amendment to the bill. Two amendments were made by this house — one was agreed to in the other place and the other was not. The government proposes that although people should not be disqualified from exercising their rights and obligations to serve on juries without good reason the community must have confidence in the jury system and in the institution of trial by jury, which is an essential element of our democratic society. The amendment which has been made by the Assembly and which the government asks this house to consider provides an appropriate balance between those considerations — that is, that people who are on bail for an indictable offence be excluded from serving on juries.

Hon. C. A. FURLETTI (Templestowe) — On the amendment, Mr Deputy President, I endorse the comments of the Leader of the Government that no-one challenges the role of the jury and the fundamental and critical role the jury system plays in our system of criminal justice. It plays a pivotal role as part of the judicial system that we all enjoy as part of the heart of our democracy.

The nature of the jury system demands that its integrity and credibility be protected and preserved and that the perception of that integrity by those who are part of and affected by that system must be maintained at all costs. If the system is to survive it is essential that it has the support and the backing of the people to whom it applies and whom it affects.

The community does not regard any interference with the jury system in a favourable light. I will refer briefly to most recent public instance of adulteration of the process, that of the John Laws case in New South Wales, which was very adversely received by the community. Indeed, the accused was fortunate not to have been incarcerated for his blatant disregard of the importance and significance of the integrity to which I have referred.

Earlier this year the opposition sought an amendment to the Juries Bill to provide that anyone on bail should be suspended from being a candidate for jury duty. The fundamental basis for the proposed amendment was that the condition of bail was discretionary. I think I said in the second-reading debate, or at least at the committee stage, that the basic condition of bail is custody without detention, that bail in itself is so close to one of the other disqualifying factors that it is a discretionary outcome of an application to be granted bail. It is not something that is as of right but something that needs to be applied for, and a person is released from custody on terms and conditions, generally with the provision of security and generally on the basis that that person can afford to satisfy the conditions of bail.

I indicated that bail of itself is not a matter of right but is custody without detention. It is therefore a fundamental tenet that while somebody in custody is prohibited from acting as a juror, anybody on bail should also be suspended. As I mentioned in that same debate, the fact that somebody is on bail of itself changes the rights and status of that person in the community.

The opposition is therefore pleased that the government considered the amendment proposed by this house and has, by proposing the subsequent amendment, acknowledged that it was wrong in the first instance. The Attorney-General in the other place has acknowledged that the community had expressed concerns and has listened to the objections of, for example, the Law Institute of Victoria and other practitioners in the area.

I was somewhat disappointed that the Attorney-General in my view condescendingly acknowledged that the concerns expressed in this house and the community, to quote his words, 'had some merit'. It appears that the government simply could not accept that the opposition's amendments were appropriate and so was unable to accept them in toto. The government has said, 'Given that the opposition's amendments go too far, we will propose an alternative'. The alternative is a genuine half-baked and unworkable compromise that takes the middle course, and unfortunately the situation is not one where a compromise will work.

Unfortunately there is no halfway position. I notice the Leader of the House is shaking her head, but

unfortunately she does not have the capacity to understand the differences.

Hon. M. M. Gould — Since 1967 people on bail have been able to sit on juries through a selection process that the courts have administered over many years.

Hon. C. A. FURLETTI — I hope the Leader of the House has finished. What is it that differentiates an accused offender on bail for the commission of an indictable offence from an accused offender on bail for the commission of a summary offence? If the government can explain the difference that may explain further the basis for this amendment.

I am uncertain about what the government is seeking to achieve. It presents a worse conundrum than what the government proposed earlier. How will the disqualified juror be identified, given the removal of the mechanism that was in place for some element of jury vetting and analysis of prospective jurors? This compromise in the view of the Liberal Party, like most compromises, will lead to complexities and anomalies the Liberal Party amendment would have avoided.

When the bill was debated in this place during the second-reading and committee stages the Liberal Party said it would not block the proposed legislation if it returned to this house but that the outcome of the government's rejecting the Liberal Party's amendment would be on its head. The view of the Liberal Party has not changed, and it believes the compromise the government has arrived at will exacerbate the problems rather than deal with them.

Therefore, although the Liberal Party does not oppose the bill, it will monitor its implementation and examine its effect on the jury system in this state.

Hon. R. M. HALLAM (Western) — The Leader of the Government invites the chamber not to insist upon an amendment that was framed when the Juries Bill was debated in his place some time ago. I hope she is reassured to learn that the National Party shall support the motion. I hope she is not surprised to learn that that is the National Party's view, because when the Juries Bill was debated members of the National Party put the government on notice.

We said that although we saw the amendment framed at that time as being important and appropriate we were not prepared to imperil the bill, and that although we would pass on the amendment with good grace and asked the government to earnestly consider it, we saw other aspects of the Juries Bill as being of such moment that we did not want to put it at risk.

In passing I make the point that the Juries Bill is an important bill that had its genesis in the work undertaken by the previous administration. While I put the Leader of the Government at ease about the fact that we will be supporting the motion, I shall make some comments about the circumstance in which we find ourselves.

This is a house of review and here is a classic example of that role being undertaken. When the Juries Bill came before this chamber earlier, in its wisdom it suggested two amendments, one of which was simply typographical but the other of which was seen to be important. We said it was totally inappropriate for a person in the community on bail to be either entitled or required to be empanelled as a juror. The concept of having a person on bail acting as a juror is preposterous, and that view would be supported across the community. What we see now emerging as some half-baked compromise underscores the concern that was expressed in this chamber.

The Attorney-General is now saying that what we have at risk is community confidence in the entire legal system and that this compromise is designed to protect that confidence. From our perspective the reverse applies: the confidence of the community in the legal system is more likely to be eroded by the knowledge that a person arraigned before the courts and charged with a serious crime can subsequently act as a juror in a case concerning another charge. That is the issue of confidence.

At the time the debate took place in this chamber members of the National Party clearly expressed concern about the impact that would have upon other jurors. One can only speculate about the impact the news that a member of the jury panel was a person on bail for a serious offence would have halfway through a case. Add to that the fact that we are drawing a clear and unwarranted distinction, a point the Honourable Carlo Furletti referred to a moment ago and a point that was made in the chamber when the bill was first debated — the inequity of drawing a distinction between a person who is on bail and a person who is remanded in custody.

The difference may be nothing more than the ability of the person charged to raise the bail. It may simply be a question of whether the charged person could raise the surety and was prepared to meet the stipulations placed upon his or her return to the community. I hope nobody is suggesting that a person on remand in custody would be taken from custody to meet his or her responsibility as an empanelled juror. Here we have the classic alternative of someone who happened to be able to raise

the bail apparently being given that responsibility. There is enormous inequity in that, and we foresaw the confidence of the community being eroded.

In good faith this chamber suggested to the government that it should re-examine the question of whether those who were in the community on bail should be entitled to be empanelled as jurors. It was made plain at the time that that recognised that a person charged with an offence is presumed innocent until proven guilty. Here we have a circumstance where the legal system itself is saying, 'Hang on, there is sufficient prima facie evidence in this case to suggest that we should be imposing some restrictions on the basis upon which this person has returned to the community'. In other words, while there is a presumption of innocence there is also a presumption of a prima facie case. That is a bad basis upon which to be establishing the principle of drawing jurors from the community.

The bill went back to the other place and the government, to its credit, considered the amendment carefully. We are told that on reflection the Attorney-General believed our concerns had some merit. So far so good. The problem is that he could not bring himself to acknowledge that maybe someone else had a better idea than him. What he did was come up with a half-baked compromise that says, 'We should only have the restriction in respect of a person who has been charged with any indictable offence'.

I suggest that is half-baked because I went to those I respect highly in the field of jurisprudence and asked them to define for me the difference between what constitutes an indictable offence on the one hand and a summary offence on the other. Those I respect highly, when invited to give me that distinction, were unable to do so.

It is clear that persons charged with serious offences under the classification of summary offences may now be entitled, indeed required, when called to serve on juries in this state. That is an unworkable compromise. It brings the government no credit at all and reflects the fact that the Attorney-General is not prepared to accept a suggestion from this chamber. The government talks about the notion of a house of review, yet the first chance this house gets to put a realistic alternative on the table, the government turns it back. The suggestion is seen to be of a lesser standard because it comes from this chamber.

Notwithstanding those comments I repeat what I said at the outset. The opposition parties stated when the bill was debated that although they saw great importance in the amendment they had carefully framed they were not prepared to imperil the bill. It is on that basis and not because of the compromise now framed by the government that the opposition parties are prepared to agree to the motion.

Motion agreed to.

CONDUCT OF DEBATE

The PRESIDENT — Order! I shall respond to matters raised by the Honourable Theo Theophanous last week. Mr Theophanous sought clarification on certain rulings from the Chair to assist members and to assist the smooth running of the house. He raised three specific issues, and I now propose to deal with them in turn.

Reference to debates in the Assembly

Mr Theophanous indicated that on some occasions members have been permitted to quote from the proceedings of the Assembly where the question of consistency of ministerial comments made inside and outside the house has been an issue but on other occasions members quoting had been ruled out of order.

As honourable members will be aware, standing order 128 says that no member shall allude to any debate in the Assembly in the same session. Any rulings on this issue turn on what proceedings constitute debate. It has long been an accepted part of parliamentary practice that a number of matters which are part of the normal routine of the house are excluded from the definition of debate even though a member may be speaking, because there is no motion before the house. Such matters include the asking and answering of questions, ministerial statements, personal explanations and matters raised on the adjournment of the house. Previous rulings in this house by President Fry on 19 September 1978, President Mackenzie on 25 February 1987 and President Hunt on 10 September 1991 support this view.

It is therefore in order for members to quote directly from the proceedings in the Assembly in the same session where those proceedings include answers to questions, members statements, ministerial statements and matters raised on the adjournment. It is, however, not in order to quote from debates on motions before the Assembly or from debates on bills before that house. Should a member feel it necessary to refer to debates in the Assembly they should do so in the most indirect way possible and paraphrase very succinctly what has been said. However, such a practice is

discouraged so that debates in this house will not simply reflect debates in the Assembly.

Taking of points of order

Mr Theophanous has asked whether members are entitled to take points of order in certain circumstances and referred to an example earlier this year where following a personal explanation he had attempted to raise a point of order which I had refused to hear.

Members are entitled to take points of order at any time and as is the practice of the house it is desirable that they be taken at the first available opportunity. However, in relation to the taking of a point of order following a personal explanation it is firstly important to restate standing order 120, which is:

> By the indulgence of the Council a member may explain matters of a personal nature, although there be no question before the Council; but such matters may not be debated.

Any member raising a point of order following a personal explanation must not attempt to debate the personal explanation under any guise. I appreciate that it will be difficult to raise a point of order following a personal explanation and not debate its content; however, any member who proceeds to do so will be ruled out of order. I point out that the Clerks have been able to find only one instance in 1988 in this house where a member raised a point of order in relation to a personal explanation.

In relation to the particular instance referred to by Mr Theophanous earlier this year, I concede that I may have been a little hasty in ruling him out of order but I was principally concerned that the provisions of standing order 120 be not infringed on that occasion.

To assist members in deciding whether a point of order can be raised following a personal explanation it might help the house if I outline the guidelines governing the content of personal explanations. It is important to remember that personal explanations enable a member to explain matters of a personal nature although there is no question before the house. Although leave is usually given, members have no right to expect it to be automatically granted. Members should be reminded that making a personal explanation by the indulgence of the Council is completely at the Chair's discretion. It is therefore the practice of the house that any member wishing to make a personal explanation should inform the President beforehand and make a copy of a proposed explanation available for examination. Any personal explanation which has not been the subject of such consultation will not be permitted to be made.

A personal explanation is allowed to correct a statement where the member may have inadvertently misled the house. It must be brief and constitute a simple statement of fact, and it must not simply engage in argument on differences of opinion.

Providing that a personal explanation meets these criteria it would normally be allowed and would in many cases obviate the need for a point of order to be taken.

Issues involving other members

Finally, Mr Theophanous referred to members attempting to raise matters on the adjournment debate where they might ask a minister to inquire into an issue that involves another member, without resorting to a substantive motion. Members will be well aware that they may only challenge the conduct of a member upon a substantive motion which requires a distinct vote of the house. Having said that, this practice does not necessarily preclude the house from discussing the activities of any of its members. However, members must be particularly careful in this regard; offensive words may not be used against any member and all imputations of improper motives and all personal reflections are highly disorderly. Matters raised on the adjournment, whether they concern other members or not, must also meet the guidelines governing such proceedings. The Chair will consider whether any issues raised against other members can be discussed on the merits of each case but members are advised that I will not tolerate the forms of the house being used to circumvent the long-established practice requiring a substantive motion where allegations are made against members.

In relation to the particular issue raised on the adjournment on Tuesday, 29 August, to which Mr Theophanous referred on Wednesday last, he did not name any member but referred the minister to an article in the newspaper that day. This matter had received some publicity and could have been considered borderline, but because Mr Theophanous had made his request in general terms and had not named any member he was permitted to proceed.

I trust that this ruling clarifies the matters raised by Mr Theophanous.

BUSINESS OF THE HOUSE

Adjournment

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

That the Council, at its rising, adjourn until Tuesday, 3 October.

Motion agreed to.

ADJOURNMENT

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

That the house do now adjourn.

Wesley Crisis Centre

Hon. W. I. SMITH (Silvan) — I ask the Leader of the Government, representing the Minister for Small Business, who is not in the chamber, to direct a matter to the attention of the Minister for Housing in the other place. The state government has announced that a new crisis accommodation centre is being planned for Ringwood to tackle homelessness in the outer eastern suburbs, and I welcome that announcement. The Wesley Crisis Centre is the only service in the area working on crisis accommodation, and it places between 1200 and 1500 people, including families and individuals, in temporary accommodation every three months. It is a greatly needed crisis accommodation centre and I look forward to it being built.

Other services are involved in the placement of homeless people, and I would like the government to announce when it will build the centre because there is a need to coordinate services between a range of groups. When will the government open the centre and when will it be operational?

The PRESIDENT — Order! I advise honourable members that the Leader of the Government will answer questions on behalf of the Minister for Small Business.

Community care: services

Hon. KAYE DARVENIZA (Melbourne West) — I direct to the attention of the Minister for Industrial Relations, who tonight is representing the Minister for Small Business, who represents in this place the Minister for Community Services in the other place the recently released discussion paper *New Partnerships in Community Care* which undertook to review the delivery of community care services in Victoria.

Given that this paper outlines a set of proposals that together provide a new framework for the delivery of care services and that it is severely critical of the previous government's approach to community care — in particular its insistence on using market mechanisms to fund welfare services — will the minister indicate how the delivery of community care services across Victoria and, indeed, throughout my electorate in the west, is affected by the recommendations?

Snowy River

Hon. R. M. HALLAM (Western) — I raise for the attention of the Minister for Energy and Resources her repeated assertions as the minister directly responsible that a 28 per cent environmental flow down the Snowy River is a realistic and achievable commitment. Given the enormous consequential effects of that commitment not only for Victoria but for New South Wales, South Australia and the commonwealth government, I ask the minister to explain what relevance she puts on the outcome of the debate at the recent Labor Party national conference which supported increased environmental flows for the Snowy River but critically stopped short of committing to any specific target.

Argyle Square, Carlton

Hon. C. A. FURLETTI (Templestowe) — I raise for the attention of Minister for Industrial Relations representing the Premier a matter which follows on from the matter I raised on 11 April this year during the adjournment debate regarding Argyle Square, Carlton.

At that time I raised with the minister for the attention of the Premier the fact that the former Kennett government had committed to the renaming of part of Argyle Square Piazza Italia. At that stage I asked the Premier to use his influence to intervene with the Melbourne City Council so the matter could be progressed.

I received a response from the Premier dated 12 May in which he said that he had asked departmental officers to investigate the issue and provide him with a briefing. Knowing how these things work, on 26 May I again wrote to the Premier and said that given the bipartisan approach to issues such as this I would be more than happy to brief him because of my background with this issue. I have since written three letters to the Premier asking for an acknowledgment of that letter, but have received none.

Hon. W. R. Baxter — Open and accountable government!

Hon. C. A. FURLETTI — Yes, it indicates open and accountable government. It is obvious that the matter is now static. Given the current state of the Melbourne City Council and the fact that it is doing very little, I ask the minister to advise the Premier that it is now time for the government to take the issue away

from the Melbourne City Council and in a bipartisan manner make a commitment, as did the previous government, to Victoria's Italian Australian community that action will be taken as soon as possible.

Rail: regional links

Hon. D. G. HADDEN (Ballarat) — I raise for the attention of the Minister for Energy and Resources representing the Minister for Transport in the other place a matter of some importance. Yesterday I had the pleasure of attending the Bracks government launch of the fast rail links project and the announcement of a $550 million injection into Victoria's rail infrastructure for the introduction of a high-speed rail service between Melbourne and the four provincial regional centres of Ballarat, Bendigo, Geelong and Traralgon.

The first rail connection to Ballarat was from Geelong and opened in April 1862. A high-speed rail service to Ballarat will have significant economic and social benefits for my electorate. The passenger rail service from Ballarat to Ararat was closed by the former Kennett government in 1994 and the freight service was closed in 1995. V/Line Passenger, part of the National Express Group Australia, has operated the V/Line franchise from August 1999 and has a 10-year franchise.

The National Express group commissioned a strategic review of coach and rail services in country Victoria, including reopening the Ballarat to Ararat rail line, and presented a summary of its review to a public hearing on 27 July at Ararat. V/Line Passenger and the National Express group support the reintroduction of a passenger rail service between Ballarat and Ararat. As well, the Rural City of Ararat commissioned a report into the extension of a rail link to Ararat in July. The Rural City of Ararat, the western regional council and other regional organisations support and provide a cogent argument for the return of passenger rail services to Ararat.

I therefore urge the Minister for Transport to give urgent attention and consideration to the reinstatement of the passenger rail service between Ballarat and Ararat in line with the fast rail links project under the government's Partnerships Victoria policy.

The PRESIDENT — Order! I ask honourable members to lower their noise levels because it is difficult for Hansard to hear.

Beach Road, Black Rock: black spot funding

Hon. C. A. STRONG (Higinbotham) — I raise for the attention of the Minister for Energy and Resources representing the Minister for Transport in the other place a request I have from constituents who live at 190 and 191 Beach Road, Black Rock. They write about the danger of the stretch of Beach Road between Bay and Balcombe roads. The road has a bend and the bike track and footpath run close to it. The residents draw attention to three accidents that have happened in the past 12 months where cars have left the road and come across the footpath and the bike track.

One of those accidents involved a cyclist being knocked off his bicycle and another a pedestrian who missed death by a couple of feet. They request that the road be redesigned at that point so that it is reduced from four lanes to two lanes from Bay Road through to Balcombe Road, which would give greater security to people who use the bicycle track and the footpath in that dangerous part of the road.

I ask the minister to draw the matter to the attention of the Minister for Transport to see if black spot funding or other specific remedies are available to redesign the road in that area.

Electricity: safety certificates

Hon. W. R. BAXTER (North Eastern) — I raise for the attention of the Minister for Energy and Resources the introduction, about a year ago, of certificates where electrical installations are made. I do not think anyone would object to the issue of electrical safety certificates where new or additional installations are being made. I draw the minister's attention to a problem emerging in cases where an electrician attends the same premises on a regular occasion for minor maintenance work.

It seems an unnecessary impost, both in financial and time costs, if a certificate has to be issued on each and every occasion. Recently an example was drawn to my attention where an electrician attends a large piggery near the village of Gunbower in my electorate, sometimes several times a day, but at least once a week. Clearly that electrician is known to the proprietor of the piggery; it is known that he is a licensed electrician; and it is known that the standard of his work is up to scratch. Where there are regular attendances at the same premises by the same electrician there should be a capacity to at least have a certificate issued annually or monthly, and certainly not on every occasion.

This seems to be a matter that the Office of the Chief Electrical Inspector might profitably cast its mind to. I invite the minister to investigate the matter to see if a more efficient system can be put in place, at the same time bearing in mind the community desire for safe electrical installations.

Braybrook: sport and recreation facilities

Hon. S. M. NGUYEN (Melbourne West) — I refer the Minister for Sport and Recreation to a community forum last week conducted by the Braybrook Social Development Group where residents and committee groups discussed issues that they felt were important to them and their local community. The lack of sport and recreation facilities and programs for young people, especially those from non-English-speaking backgrounds, was identified as a need that is not being met. Will the minister advise the house what the government is doing to meet the needs of young people, especially those from non-English-speaking backgrounds, in the provision of sports and recreation programs and facilities?

Maroondah: financial counselling services

Hon. A. P. OLEXANDER (Silvan) — In the absence of the Minister for Small Business, who represents the Minister for Community Services in the other place, I seek the assistance of the Leader of the Government. Last week I received a letter from the mayor of the City of Maroondah, Cr Peter Gurr, about a recent assessment of people who access generalist financial counselling services in the city. For the year 1999–2000 it was found that 520 people required assistance with their personal financial crises. I was surprised to learn from Cr Gurr's letter that these are not people who have gambling or specialist financial problems, but people with serious debt problems because they are low-income earners, social security recipients or struggling small business people who are not able to afford to go to a financial planner or an accountant.

For some time now a local agency, Eastern Access Community Health, has provided a generalist and specialist financial services program to the residents of the City of Maroondah. Funding for those programs has come from grants from the Community Support Fund administered by the minister's department. I am advised that late last year the Department of Human Services announced that it would now only extend such financial counselling services to problem gamblers and that no community support funding would be made available for the generalist financial support services after 30 June 2001.

I am reliably informed that since the inception of the Community Support Fund under the Kennett government, funding for financial counselling services was made available for both problem gamblers as well as for people having general financial problems. Unfortunately, this decision will mean that there will be no generalist financial support and counselling service in Maroondah, and I dare say other municipalities throughout the state, from the middle of next year.

I ask the minister why her department changed its criteria for funding of financial support and counselling programs from the Community Support Fund, and how it differentiates between problem gamblers with financial problems and people with generalist financial problems. I also ask if it is the minister's intention to extend core funding for such services separately from within her department's budget.

Mildura hospital

Hon. B. W. BISHOP (North Western) — I refer the Minister for Industrial Relations representing the Minister for Health in another place to the appointment of the advisory board of the new Mildura hospital. As honourable members are aware, the new hospital is privately owned and operated under contract to the government for community use. I also note there is an open day next Saturday, 9 September, which Mr Best and I will attend. We expect many community members will avail themselves of the opportunity to look through the hospital and also ask any questions they may have.

While the hospital management will obviously have its own consulting linkages out in our communities, I welcome the appointment of an advisory board which will provide a formal platform and opportunity for community input into the services provided by the hospital. I ask the Minister for Health to take into account the sensitive nature of the history of the new hospital in Mildura when appointing the new advisory board so that the maximum community benefit can be achieved.

Apex Club of Mansfield

Hon. E. G. STONEY (Central Highlands) — I seek the assistance of the Minister for Industrial Relations to pass on a question to the Minister for Consumer Affairs. I have received a letter from the Apex Club of Mansfield under the names of the president, Joe Hutchinson; secretary, Donald Howie; and treasurer, Ian Keys, relating to the effects of the Fundraising Appeals Act on the club. I am well aware the Honourable Bill Forwood has raised the same issue on behalf of the Apex Club at Mortlake. I declare an interest in the Mansfield Apex club as I was the president a few years ago. Mansfield Apex club is well regarded as one of the leading Apex clubs in Victoria. It was formed back in the 1950s.

The issues raised by the Mansfield Apex club are many. They are listed and were also raised by the Honourable Bill Forwood. This highlights that many clubs around Victoria are experiencing difficulties with the act. The letter adds weight to the appeal to the minister to re-examine the issue and perhaps give assistance to small clubs operating under the act. I ask the minister to consider the matter.

Teachers: scholarships

Hon. P. R. HALL (Gippsland) — I refer the Minister for Sport and Recreation representing the Minister for Education in another place to the recently announced government teaching scholarship scheme that we are told will be used to attract teachers to difficult-to-staff schools. I am supportive of the scheme and in years past was the recipient of a similar scheme. In those days they were called teaching studentships. As recipients of those studentships we were bonded to teach for three years on completion of our teacher training and directed to fill a position at a school of the department's choosing, which is the key point I wish to raise tonight.

In those days we had central employment and under that system the department directed studentship holders to schools where they were needed. Currently, schools with vacancies freely advertise those positions and teachers apply for them. There is no central employment.

I wish to know how the government will ensure that scholarship holders will be required to take up positions in difficult-to-staff schools. Will the government actually nominate schools that are deemed difficult to staff and require people who receive scholarships to apply only to those particular schools, or will we go back to a system where recipients of scholarships are directed to take up positions in schools that are difficult to staff?

At certain times many country schools find it difficult to attract staff. If the government is diligent with the scheme, it has the ability to benefit some of those country schools. I seek advice from the minister about how she can ensure that recipients of student scholarships will help schools with the greatest staffing difficulties.

Hospitals: refusal of treatment

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — I raise with the Minister for Industrial Relations, as the representative in this house of the Minister for Health, a representation I received from Dr Helga Kuhse, an honorary senior research fellow at the Centre for Human Bioethics at Monash University. As honourable members may be aware, the Medical Treatment Act 1988 allows people suffering from illness to ask their medical practitioners to prepare refusal of treatment certificates. The effect of those certificates is that they alert medical practitioners in the event of patients becoming incapacitated that they do not wish to receive further treatment.

I am informed by Dr Kuhse that while the certificate system has been working in Victoria for a number of years, there is currently no central register where the details of those certificates are held. That means that in the event of patients who are in and out of hospital a number of times and treated by a number of different practitioners, there is a very real risk that their wishes with respect to refusing treatment may not be complied with simply because the treating medical practitioners are not aware of the certificates they have lodged. I ask the Minister for Health to investigate the matter and consider whether a statewide or national central register should be established to keep the details of those refusal of treatment certificates.

Waverley Park

Hon. N. B. LUCAS (Eumemmerring) — I raise with the Minister for Sport and Recreation the Waverley Park fiasco. When I referred the minister to the matter last night he said in his reply that discussions had been held with the Australian Football League about the ongoing viability of the AFL competition and clubs.

The fact that the government now accepts that viability of the competition and clubs is at stake appears to have resulted from the suggestion of the Minister for Gaming to the City of Greater Dandenong that it should apply for heritage listing of Waverley Park.

The *Dandenong Examiner* of 4 September reported that two years ago when in opposition Mr Pandazopoulos was in the vanguard of the Save Waverley campaign and was urging Premier Kennett to compulsorily acquire the ground. Mr Pandazopoulos, now the Minister for Gaming, is quoted in the newspaper this week as saying that compulsory acquisition was out of the question.

A further article appearing on page 2 of yesterday's *Dandenong Examiner* quoted the chief executive officer of the Kangaroos Football Club, Greg Miller, as saying that:

> … the heritage listing is a disaster … for all football fans.

He referred to the fact that the AFL will have to borrow $30 million to pay off Colonial Stadium.

Given that the potentially disastrous financial effects of the heritage listing on both the AFL and league clubs such as North Melbourne, St Kilda, Hawthorn and Footscray are a direct consequence of the activities of the Minister for Gaming, will the minister advise the house what the government intends to do to support the AFL and league clubs to get them out of the financial mess they are in, which it appears was caused by one of its ministers?

Housing: Shepparton estate

Hon. E. J. POWELL (North Eastern) — I ask the Minister for Industrial Relations to pass on a matter to the Minister for Small Business, as the representative in this house of the Minister for Housing. Honourable members may recall my raising a number of times in the house the need for upgrading a public housing estate in Shepparton called the Parkside estate. I chaired an advisory committee that developed a strategy report for the Minister for Housing, who wrote to me on 8 August accepting the committee's recommendations and broad principles and adopting option A as a broad strategy. That is the committee's preferred option for the housing development. It is a $5 million development over three years, and I thank the minister for that decision.

I have been contacted by a reputable local organisation that has asked to be given an opportunity to put a bid in for the redevelopment of the Parkside estate. It is a local organisation which employs 50 people, including engineers, planners and designers. I am told it is the biggest regional office outside Melbourne. The people in that organisation are prepared to manage the whole project. They have done that before, as they are also project managers. They are not asking for special treatment, and they are prepared to compete with Melbourne contractors as well as other local rural contractors. Shepparton has many expert local contractors for such developments in rural Victoria. It will be a very large project that will stimulate strong employment opportunities in the Shepparton region. I ask the minister to make a commitment that the local organisations and contractors will be given an opportunity to offer expressions of interest to bid for that important project.

Hospitals: intensive care beds

Hon. B. C. BOARDMAN (Chelsea) — I raise with the Minister for Industrial Relations, as the representative in this house of the Minister for Health, a serious and distressing matter concerning Mrs Sylvia Holmes, a patient in the intensive care unit (ICU) of the Frankston Hospital, who is currently in critical care on a ventilator. As I understand it, Mrs Holmes is suffering from a condition where blood is flowing freely about her brain and she requires urgent neurosurgical treatment in an intensive care environment.

As of midday today staff at the Frankston Hospital ICU, who have performed quite extraordinarily throughout the treatment of Mrs Holmes's condition, were still attempting to locate a bed with an intensive care facility, in accordance with the patient's initial and subsequent diagnoses made up to 30 hours ago. The situation is that there are no special ICU beds available in greater Melbourne. In fact, the family was advised that they may have to treat and transport Mrs Holmes interstate to find an appropriate facility.

The government was notified last night about the case. Three separate emails were sent by the family to both the Premier and the Minister for Health about the seriousness of Mrs Holmes's condition. As of this date none of those emails has been replied to. It appears that the Premier and the Minister for Health do not view someone's life being in jeopardy as of sufficient importance to justify the demonstration of their compassion by replying.

The first time the family received any notification from the government was when it was contacted by the chief executive officer of the Peninsula Health Care Network, Mr Chris Fox, who informed the family there may have been a misdiagnosis in Mrs Holmes's condition. I sincerely hope there has been a misdiagnosis; however, it is unacceptable that the government and the Department of Human Services did not respond when a number of attempts had been made to bring the situation to their attention. It is amazing that Mrs Holmes's condition has changed so dramatically. The case has generated some publicity, and Mrs Holmes's daughter-in-law has spoken on the Neil Mitchell show.

I ask the government to put politics aside for one moment and to stop acting disgracefully and do something about the situation. A lot of rhetoric about health services has been heard since the election, but clearly the situation is critical. I ask the minister as a matter of the utmost priority to stop playing politics with the issue and ensure that Mrs Holmes receives the necessary medical care that should include an independent neurological examination to confirm the level of medical care she requires and ensure that that is carried out with the urgency the situation deserves.

World Economic Forum

Hon. P. A. KATSAMBANIS (Monash) — I ask the Minister for Industrial Affairs to refer a matter to the attention of the Minister for Small Business as a matter of urgency. The matter relates to representations I have had from a number of small businesses in my electorate that fear they will be directly affected by the unnecessary and unreasonable actions that will be taken next week by an organisation known as S11 in order to disrupt the World Economic Forum, which is for the first time being held in Melbourne.

Honourable members would be aware of both the forum — a great coup for Victoria secured by the former Kennett government — as well as the proposed actions of the fringe group. A number of small businesses are located in the area in and around the Crown Casino complex where the World Economic Forum is to be held, including small retailers, cafes and restaurants, and a number of other small businesses such as information technology companies and the like.

A significant number of the small businesses have contacted my office fearing that the disruption likely to be caused by the planned demonstrations by the S11 group will impact detrimentally on them. They fear that the proposed blockade of streets will prevent them and their staff from attending their premises and will also deter their customers from doing business in that period.

Government members may scoff at their apprehension, but it is a real concern of small businesses that, in many ways, they have been trampled on by the government. I call on the Minister for Small Business to highlight to the house what she has done to protect small business operators in my electorate from any unwarranted and unnecessary intrusions into their businesses. If nothing has been done to date I call on her to act to ensure that small businesses are protected and the livelihoods of business operators are not put at risk.

Toxic waste

Hon. J. W. G. ROSS (Higinbotham) — I ask the Minister for Energy and Resources to direct a matter to the attention of the Minister for Environment and Conservation in the other place. It concerns the illegal toxic waste dump discovered last week at Melbourne's Docklands. It was yet another in a series of illegal toxic waste dumps, many of which have been discovered near my electorate. I particularly refer to a cyanide spill in Dandenong North.

Only two facilities are available to cater for toxic waste disposal: one at Tullamarine and the other at PWM in Taylors Road, Lyndhurst, close to the border of my electorate. The facility is accessible by road through my electorate. Estimates vary but the Tullamarine facility has only about 12 to 18 months to continue as a toxic waste disposal dump. That means the Lyndhurst facility will become the only place available in the metropolitan area.

My concern relates to the hazardous waste management committee established by the Kennett government and reconvened by the present Minister for Environment and Conservation. That committee reported on the issue on 1 June last and the minister has sought community consultation. When in opposition the Labor Party refused to acknowledge that any problems existed.

As the facilities progressively close, honest manufacturers — I have a large concentration of manufacturing industries in my electorate, particularly in Braeside and Moorabbin — have no alternative but to allow toxic substances such as cyanide and polychlorinated biphenyl compounds to accumulate and to store them in their manufacturing facilities on site. Throughout the state thousands of sites contain hazardous waste. What progress has the government made to address the looming issue of the disposal of hazardous industrial waste, particularly in my electorate and at the waste disposal facility at Lyndhurst?

Better Pools program

Hon. M. T. LUCKINS (Waverley) — The matter I direct to the attention of the Minister for Sport and Recreation concerns the Better Pools program he referred to during question time today. As he should know, Monash City Council proposes to construct a new aquatic facility at Glen Waverley for use by Monash ratepayers. The total project cost is estimated to be $16.6 million, an increase from the original estimate of $13.7 million. Last year the council was successful in gaining a $2.5 million grant from the Kennett government.

As the minister should also be aware, the City of Casey has received a $5-million grant to build a similar size facility. I refer to a letter from the Premier to the mayor of the City of Monash. He states:

> As you are probably aware, the Better Pools program was established recognising the often substantial funding required for building major aquatic leisure facilities. For this reason the maximum available grant under this program was increased to $2.5 million from the $500 000 previously available under the facility development funding program.

A maximum allocation is applied to ensure that a number of councils in both metropolitan and rural areas have the opportunity to access the funds available in any funding round.

A recent review of the program prior to the release of the second year's funding guidelines has resulted in retaining the maximum ceiling of $2.5 million for this reason.

Whilst I appreciate the commitments made by council to this facility, I regret that I am unable to agree to your request for $1.5 million in addition to the $2.5 million already committed through Better Pools.

As I said, the City of Casey has received $5 million from the government — that is, $2.5 million from the previous government and an additional $2.5 million from the Bracks government. However, the government has refused to provide the additional funds required for the finalisation of the Glen Waverley aquatic centre — that is, only $1.5 million — not the $2.5 million that was awarded to the City of Casey. Will the minister explain the discrepancy and consider the funding needs of the City of Monash to establish a good aquatic facility in that city?

Fishing: rock lobsters

Hon. R. H. BOWDEN (South Eastern) — I seek the assistance of the Minister for Energy and Resources. I refer to an issue that is causing considerable disquiet in and around San Remo in Gippsland West. Many families associated with the rock lobster fishing industry are becoming increasingly unhappy and concerned about their welfare. They await the government's announcement of the results of the considerable research program it has conducted over the past nine months or more on access to that resource.

Will the minister be mindful of the fact that a large number of families have been in the industry for generations and have considerable investments in the rock lobster fishing industry? When considering the report that is now with her department I ask the minister to be mindful of the fact that the retention of satisfactory economic access to the rewards of the industry is an important factor in the continuation of this important activity in a valuable part of regional and rural Victoria.

When the government makes its decision about economic access for rock lobster fishing in the eastern zone of Victoria, particularly in the San Remo region, will the minister ensure that employment considerations are also protected?

Electricity: supply

Hon. PHILIP DAVIS (Gippsland) — I refer an issue to the attention of the Minister for Energy and Resources. Victoria's electricity crisis last February demonstrated the failure in ministerial responsibility of the Bracks government. The minister's task force report on security of supply, released today — I thank the minister for providing me with a printed copy of the report, which is superior to the faxed copy I received earlier today and makes easier reading — highlights the coincidence of unchecked industrial action during the peak summer demand conditions that caused the power supply crisis.

The government's mishandling was evident first in its failure to intervene in the industrial action at Yallourn and subsequently in its overreaction in imposing draconian restrictions to the extent of facilitating electricity sales interstate while Victorians were suffering from the withdrawal of services. Further, as a knee-jerk reaction, the government, through the Premier, raised the prospect of the construction of another 1000-megawatt generator. Given that the task force outcome, as announced by the Premier today, concludes that Victoria does not require a large new baseload generator, does this not demonstrate the real difficulty for the electricity sector investors?

During question time the minister announced that an advertising campaign commencing today will involve persuading consumers to turn off their airconditioners during extremely hot weather. Will the minister advise the house whether this is the best the government can do to rebuild confidence in the electricity industry and secure long-term investment?

Industrial Relations Victoria: review

Hon. BILL FORWOOD (Templestowe) — In the absence of the Minister for Small Business, I raise an issue with the Minister for Industrial Relations. I understand that Industrial Relations Victoria has a budget of nearly $10 million and that it is in the process of being established. I also understand that a decision has been made to commission a management review of this new entity. I wonder if the minister would care to inform the house of who is conducting the review, how much it is costing and whether it has been tendered.

Workcover: premiums

Hon. D. McL. DAVIS (East Yarra) — My matter this evening is for the Minister for Sport and Recreation and concerns the issue of Workcover premiums and

their impact on sporting goods retailers and recreation suppliers in my electorate.

The Snowgum company has a number of stores, including one in Malvern and another in Glenferrie Road, Hawthorn. The Hawthorn store has experienced an increase in its Workcover premiums of 56 per cent. This sort of increase has been experienced by a number of other retailers. I have talked to golf equipment and camping suppliers, and all of these stores have experienced increases in Workcover premiums.

Hon. T. C. Theophanous interjected.

Hon. D. McL. DAVIS — No, it impacts on the sporting goods retailers and the recreational industries. I make the point to the minister that this is not caused by the goods and services tax, because most sporting and recreational goods have had the wholesale sales tax removed and their prices have fallen since the introduction of the GST. Prices have fallen by about 3 per cent in the case of golf clubs. If the minister wanted to check that, the Australian Competition and Consumer Commission web site goes into considerable detail about the fall in the cost of sporting goods following the introduction of the GST. In that context, I make the point that we will see a rise in the cost of sporting and recreational goods due to the impact of the Workcover premiums. I want to know what the minister intends to do and what he has done to prevent the rise in the cost of sporting and recreational goods which will flow from the government's Workcover premium increases.

Bass Coast: sewerage dispute

Hon. K. M. SMITH (South Eastern) — I wish to address my adjournment matter to the Minister for Energy and Resources representing the Minister for Local Government in another place. I raise with the minister my grave concerns about the Bass Coast Shire Council as it appears to be working in conjunction with the South Gippsland Conservation Society, which I believe is guilty of extortion following the demands of Mr John Cuttriss, a member of that society, for $5000 to allow a sewerage connection to be made to an aged care hostel being built on a development in Inverloch. The matter is reported on page 1 of the *Sentinel Times* of 25 August and is of great concern.

The builder, in conjunction with the local community group which was developing this aged care hostel, employed a local engineering company to design a sewerage connection that ran along the boundary of a municipal reserve. The plan was approved by the local sewerage authority and work commenced. In less than half a day that work was stopped by the Bass Coast shire on the basis of a complaint made by Mrs Sophie Cuttriss that approximately 12 trees with 8 to 10 years of growth were to be removed to make way for the sewerage connection on a drainage easement in the area. Work on the connection was put back several weeks.

The local conservation group, led by Mr John Cuttriss and his wife Sophie, suggested to the builder that $5000 would allow the work to continue. The developer, who is a well-known and respected builder of aged care facilities, agreed to pay the money to allow the job to continue. The easement was approved by the sewerage board and the local council had been advised that the job was to commence. I believe the developer was the victim of extortion by the South Gippsland Conservation Society in conjunction with the Bass Coast Shire Council led by Mayor Noel Maud, who was formerly the president of the South Gippsland Conservation Society.

I ask the minister to investigate the activities of the Bass Coast Shire Council in this disgraceful affair and to report to the police for investigation the successful extortion of the builder by the South Gippsland Conservation Council and its members. This is a disgrace and these people should be stopped and punished.

Rail: port of Geelong link

Hon. I. J. COVER (Geelong) — It gives me pleasure to join the adjournment debate this evening, having missed last night's adjournment. I take this opportunity to thank honourable members who have expressed concern about my having to leave yesterday on an urgent personal matter. Tonight I raise a matter for the Minister for Ports.

Yesterday during question time the minister advised the house of the performance of the publicly owned port of Melbourne during 1999–2000. At the same time the minister took the opportunity, by way of comparison, to refer to the privatisation of the regional port of Geelong with the inference being that there were better outcomes for the publicly owned port than the privatised port of Geelong.

Hon. R. M. Hallam — She had a swipe at Portland as well.

Hon. I. J. COVER — I can only refer to Geelong in this context but I recognise, as Mr Hallam says, that the minister took a swipe at Portland as well. I was amused by it yesterday and I am still amused by it today. I draw the attention of the minister to an article in the

September edition of *Geelong Business News* headed 'Port power — the port of Geelong is booming'. The article, written by Kevin McCarthy, reports that the port has 'enjoyed another record trading year, handling over 12 million tonnes of cargo in 1999–2000'. Kevin McCarthy also reports that the port is poised to become 'an even more important economic driver to the region' and 'a powerful player in Victoria's expanding maritime trade'.

One of the keys to this progress is the extension of the standard gauge rail track into the port and in particular to Lascelles wharf. The cost of that extension is in the order of $12 million. I note that the Parliamentary Secretary for Infrastructure, Carlo Carli in another place, says, 'The reality is it has to be done'. At the election last year the ALP promised $4.5 million to this project when the cost was estimated at $9 million; the ALP promised half of the cost.

Can the minister advise the house of the current position in relation to fulfilling the government's election commitment and increasing the government's contribution so that it remains at 50 per cent of the funding required, which is now estimated at $12 million?

Minister for Energy and Resources: consultation

Hon. R. A. BEST (North Western) — I raise with the Minister for Energy and Resources proposed amendments to the Mineral Resources Development Act. I received a letter from the Coalition of Communities Against Open Cut Gold Mining in Victoria that I believe was intended for Labor members. It is dated 28 August and states:

> Dear Member
>
> Enclosed is a copy of a letter to the Hon. Candy Broad from the Coalition of Communities Against Open Cut Gold Mining in Victoria Inc. identifying significant concerns about proposed amendments to the MRD Act that have been presented to you in a consultation paper by the minerals and petroleum policy department, Natural Resources and Environment.
>
> The Bracks government committed itself to the people of country Victoria to open and consultative processes. The proposed amendments have quite obviously been party to lengthy discussions and agreements with sections of the mining community which to date has excluded many communities affected by goldmining.

In addition I have a copy of a memo from the Minister of Energy and Resources addressed to all government members. The subject is 'Proposed amendments to the Mineral Resources Development Act', and it states, in part:

> Cabinet has prepared the drafting of amendments to the MRDA 1990 to ensure it continues to provide a balanced legislative framework for the development and regulation of the mineral and exploration and mining industry in accordance with Labor's policies.

The memo later refers to compensation for:

> … loss of possession, damage, severance, loss of opportunity and decrease in market value.

It also refers to confusion over the loss of amenity being limited to $10 000.

The minister has distributed the memo to government members and to about 200 other people in communities across Victoria. She has been very selective in her consultation, particularly about the time available for responses to the proposed changes — until 15 September.

The government purports to be an open and accountable government. I therefore ask the minister now whether she will make the document available to all sections of the community, particularly Liberal Party and National Party members of Parliament, so proper and extensive examination of the legislative changes can be scrutinised, particularly as the time frame for responses to the proposed changes is limited to 15 September, with an extension of one week if representations are made.

Industrial relations: task force

Hon. M. A. BIRRELL (East Yarra) — My question to the Minister for Industrial Relations relates to the tender that the minister advised the house during question time she is calling for the economic impact study on the controversial recommendations of Labor's industrial relations task force. I was very pleased to hear that, unlike the previous consultancy appointments, which were simply chosen from — —

An Honourable Member — Mates.

Hon. M. M. Gould — By the task force.

Hon. M. A. BIRRELL — Yes, but not — —

An Honourable Member — You are trying to be complimentary, aren't you?

Hon. M. A. BIRRELL — Yes. They were not chosen as the result of a tender, but I am pleased that this one will be chosen as a result of a tender.

I seek the minister's advice. On what date was the tender called for, and is it being called for in the form of advertisements, is a notice being placed in the *Government Gazette* or are letters going to consultants? What is the process for the tender being called, and when was it called?

Responses

Hon. M. M. GOULD (Minister for Industrial Relations) — The Honourable Wendy Smith raised a matter for the Minister for Housing about crisis accommodation. I will pass that on to the minister and ask her to respond in the normal manner.

The Honourable Kaye Darveniza raised a matter for the Minister for Community Services about a discussion paper on the new partnership delivering community care. I will ask the minister to respond to her in the normal manner.

The Honourable Carlo Furletti raised a matter for the Premier about Argyle Square in Carlton. I will raise that with the Premier and ask him to respond in the normal manner.

The Honourable Andrew Olexander raised a matter for the Minister for Community Services about financial advice services. I will pass that on to the minister and ask her to respond in the usual manner.

The Honourable Barry Bishop raised a matter for the Minister for Health concerning the advisory board of the Mildura hospital. I will raise that with the minister and ask him to respond in the usual manner.

The Honourable Graeme Stoney raised a matter with the Minister for Small Business — honourable members are aware she is ill this evening — regarding the Apex Club of Mansfield and the effects of the Fundraising Appeals Act. I thank the honourable member for his letter on that. I will pass it on to the minister and ask her to respond in the normal manner.

The Honourable Gordon Rich-Phillips raised a matter with the Minister for Small Business to be referred to the Minister for Health about the Medical Treatment Act and the possibility of a central database. Obviously it is a state account and can only be established in a state system, but I will refer that to the Minister for Health and ask him to respond in the usual manner.

The Honourable Jeanette Powell raised a matter for the Minister for Housing concerning the government's commitment to improve the Parkside Estate with a $5 million project. She asked that the minister take into account a number of organisations, country organisations in particular, to ensure funding of that project on an equal basis. I will raise that with the minister and ask her to respond in the normal manner.

The Honourable Cameron Boardman raised a matter for the Minister for Health concerning the availability of a bed in an intensive care unit for Sylvia Holmes. I will ask the minister to respond in the normal manner.

The Honourable Peter Katsambanis raised a matter for the Minister for Small Business about concerns of small businesses in his electorate as a result of the World Economic Forum coming to Melbourne.

The Honourable Bill Forwood raised a matter with me concerning advice I gave him in a Public Accounts and Estimates Committee hearing that Industrial Relations Victoria was undergoing a review as a result of bringing the two branches together. That review was undertaken by the executive director, as I advised him. I am informed it was done in line with government policies and guidelines and that the secretary of the department oversaw that project.

Hon. Bill Forwood — It did not go out to tender? You just did it internally?

Hon. M. M. GOULD — It did go out to tender. It went through a tender process under the appropriate guidelines and it was approved by the secretary of the department and the executive director.

An honourable member interjected.

Hon. M. M. GOULD — To be honest, I am not sure. The tender went out in line with government guidelines, in line with the principles set out. The process of getting the consultants to undertake the review was done within government guidelines and that was approved by the executive director and the secretary of the department.

Hon. B. N. Atkinson — Was there a consultant?

Hon. M. M. GOULD — Yes, I said there was a consultant.

An Honourable Member — You said the executive officer did it.

Hon. M. M. GOULD — No, I said the consultant who undertook the review was selected in line with the guidelines set down and that was approved by the secretary of the department and the executive director.

Hon. Bill Forwood — Can you check up and write me a note?

Hon. M. M. GOULD — Sure. I am quite happy to spell that out.

The Honourable Mark Birrell referred to the announcement I made yesterday that the government would undertake an economic impact study on the recommendations of the independent industrial relations task force. On formally receiving the report yesterday I signed off on a brief with the department to put in train the tendering process for that.

Hon. M. A. Birrell — Before or after question time?

Hon. M. M. GOULD — I signed it off yesterday after question time.

Hon. M. A. Birrell — That is not what you said. You said during question time.

Hon. M. M. GOULD — Sorry, I signed off yesterday morning after I formally received it, before question time.

Hon. M. A. Birrell — Is that morning, or after question time?

Hon. M. M. GOULD — Yesterday I signed off after I had formally received the independent task force report and indicated that the government would undertake an economic impact statement. I signed off the brief for the department to undertake the usual process in line with government guidelines.

Hon. C. C. BROAD (Minister for Energy and Resources) — The Honourable Roger Hallam again raised with me the matter of the government's commitment to the Snowy River and referred particularly to the resolution carried at the August national conference of the Australian Labor Party. That resolution committed Labor to recognising that the Snowy River must return to a flow that is ecologically viable and went on to talk about the process of negotiating that return. He made much, as he has on other occasions, of the fact that the resolution did not directly refer to the government's commitment to a flow of 28 per cent.

I indicate, as I have on other occasions, that a 28 per cent flow is not an arbitrary figure that the government has plucked out of the air, it is a flow based on the findings and the work of the Snowy River inquiry. When the government and the Labor Party refer to the need to return to a flow that is ecologically viable, by definition that is what they are talking about when they set a target of 28 per cent. That is the reason for setting that percentage of average natural flows and that is the target to which the government is committed.

The Honourable Dianne Hadden raised for the attention of the Minister for Transport a matter concerning the government's announcement of the fast rail project to Ballarat. She asked the minister to give urgent consideration to reintroducing passenger rail services from Ballarat to Ararat as part of that fast rail project. That is a matter I shall refer to the Minister for Transport.

The Honourable Chris Strong also raised a matter for the attention of the Minister for Transport on behalf of constituents at Beach Road in Black Rock. He asked that the minister investigate the redesign of a section of Beach Road in relation to the distance between the road, the footpath and bike tracks to protect the safety of users of the footpath and bike tracks in light of recent accidents. That is a matter I shall refer to the Minister for Transport.

The Honourable Bill Baxter raised with me the matter of electrical safety certification and the problem that has been identified in connection with regular maintenance of premises by the same electrician and certification on each occasion. He requested that I investigate the matter with the Office of the Chief Electrical Inspector to see whether another arrangement can be arrived at which protects safety but improves efficiency. That is a matter I shall take up with the Office of the Chief Electrical Inspector.

The Honourable John Ross raised for the attention of the Minister for Environment and Conservation a matter concerning limited facilities for the legal disposal of hazardous waste and the storage of hazardous waste. He called on the minister to give urgent attention to the need for increased facilities, particularly in his province. That is a matter I shall refer to the Minister for Environment and Conservation.

The Honourable Ron Bowden raised with me the matter of rock lobster fishers and their families at San Remo and their concern about the future of the rock lobster industry. This is a matter about which we have had discussions. I have had lengthy consultations with people in the industry, including representatives of the industry in San Remo. I am acutely aware of the circumstances which they and rock lobster fishers in other rural and regional communities face where we have a natural resource that is under a great deal of pressure and where the federal government is calling on the state to manage the resource within ecologically sustainable development principles, principles to which the state government is committed.

I also acknowledge that the previous government had made a start on addressing this matter and investigations and reports were commenced under it. In weighing up these matters I am currently in the process of seeking advice through the Fisheries Co-Management Council prior to making a decision shortly. I shall give a commitment to the honourable member that in making that decision I shall be carefully considering the social and economic impacts on local communities and at the same time endeavouring to meet the ecologically sustainable development principles the government is required to abide by.

The Honourable Philip Davis raised with me the matter of the report released today on security of the electricity supply, a matter I am delighted to talk about having spent some months working on it and given that it is a dry subject and not many people want to talk about it in great detail. The matters the honourable member raised refer to a number of issues in the report. However, he has spoken somewhat misleadingly about how the matters are actually referred to in the report. In relation to the impact of industrial action, it is made clear in the report that it was only one of a number of factors that influenced the load shedding in February this year.

The report refers to a large number of actions the government is proposing to take in securing electricity supply for the state. The report makes it clear that on baseload generation the investigations undertaken by the task force established that in meeting the peak demand needs of the state, which are in the short to medium term, there is no possibility of the industry investing in large-scale baseload generation to meet the need in around 1 per cent of the year.

Having established that fact, the report goes on to address in some detail the actions the government proposes should be undertaken to address that 1 per cent issue in securing sufficient supplies to meet peak demand, in particular the matter of addressing demand management.

The government's investigations suggest that the matter has been greatly underestimated and has not been given due consideration, either in the marketplace or by the national market. It is the government's view that there are considerable commercial opportunities in addition to another matter raised by the honourable member — that is, encouraging energy conservation and energy efficiency, which has considerable benefits ranging from a reduction in greenhouse emissions to reducing bills for consumers.

In addition to those matters the report clearly talks about entering into commercial contracts to secure interruptable supply. The most well-known example of that, which works very well in Victoria, is the smelter, and there is no reason why commercial contracts of that nature cannot be secured. The report also addresses the issue of securing existing stand-by generation. There were no systems in place to identify let alone enter into commercial arrangements to supply electricity into the grid.

The report shows what needs to be done to address the short-to-medium term situation in Victoria. In terms of securing industry investment to meet average growth in demand over the longer term, there is no reason to believe that when that is economically viable the industry will not make that investment. Clearly in the short-to-medium term that is not a proposition.

The Honourable Ian Cover referred to the port of Melbourne, the port of Geelong, the standard rail connection to the port of Geelong and the government's commitment to that matter.

An honourable member interjected.

Hon. C. C. BROAD — No, I do not believe he mentioned that. He referred to my answer to a question on the performance of the port of Melbourne. I reject his claim that I cast aspersions on the performance of the port of Geelong. In referring to the performance of the port of Melbourne I was seeking to point out to the opposition that despite its preoccupation when in government with privatising ports, the publicly owned port of Melbourne is perfectly capable of performing at a high level. I congratulate the port of Melbourne and the privately owned ports on their performances. I point out that the port of Melbourne is more than capable of performing very well as a publicly owned port.

The government's commitment to the standard rail connection to the port of Geelong and its commitment to provide $4.5 million to that project through the Regional Infrastructure Development Fund, which I seem to recall the Honourable Roger Hallam raised at the Public Accounts and Estimates Committee, is very clear. In line with advice I have been provided with, I expect that private sector partners are ready and waiting to fund the remainder of that project. Commercial discussions are taking place at this time, and I am not in a position to say who those parties are. I confidently look forward to making an announcement on the issue in the near future.

The Honourable Ron Best asked about amendments to the Mineral Resources Development Act and widely circulated correspondence from the Coalition of Communities Against Open Cut Gold Mining in

Victoria. He raised the matter of consultation on the proposed amendments. Those matters were first raised by me in the ministerial statement I delivered at the end of the last session of Parliament. The proposed amendments that have been widely circulated to stakeholders, critics and supporters alike, are just that — proposed amendments. Following the circulation of those proposed amendments there will be a further stage, and that will be when the legislation is introduced into the Parliament following the response to the amendments. In my view the consultation program the government set out is more than adequate. I reject the assertion that in some way the government is not being open and transparent.

I also reject the assertion that those matters were given prior circulation to some stakeholders. They were circulated to all stakeholders at the same time within a period of one month, which is a standard period of consultation for draft proposals. As Mr Best said, on request, that has been extended by a further week. I believe I have answered all questions.

Hon. K. M. Smith — The minister has not answered my question.

Hon. C. C. BROAD — The Honourable Ken Smith raised for the attention of the Minister for Local Government the matter of the Bass Coast Shire Council. He referred to a sewerage connection and affected trees that had been identified by a local conservation group. He asked the minister to investigate the matter with reference to charges being brought by police against certain persons. I will refer the matter to the minister.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — The Honourable Sang Nguyen asked about sport and recreation programs for young people, especially those from non-English-speaking backgrounds. The government recognises the importance of sport in the lives of all Victorians, including the young and the newly arrived in this country, who are potentially at risk. That group has been identified as the major focus for a new project that I am pleased to announce — that is, a multicultural sports initiative. I have approved funding of $40 000 for two years for a multicultural sports project to be run in conjunction with a centre for multicultural youth issues, with the assistance of funding from Vichealth.

As I said, the project will involve the identification of specific sport and recreational needs of communities with young and newly arrived migrants and refugees, start-up sport programs for identified communities and the provision of small grants for equipment and uniforms for identified communities. It also involves the development of partnerships between key local groups including ethnic communities, state sport and recreational associations, local government, schools and youth agencies. As well, it includes the provision of resources and training for key groups to develop sustainable policies and practices for increasing participation and membership of people from culturally and linguistically diverse backgrounds.

In the past six months the government has funded a number of state sporting associations to implement programs aimed at increasing the participation of specific ethnic groups. Those associations cover hockey, orienteering, volleyball and rugby union.

The Honourable Peter Hall asked how the government teaching scholarship scheme will be implemented and how those in receipt of scholarships will take up those positions, particularly in country schools. I will refer the issue to the Minister for Education in the other place.

The Honourable Neil Lucas asked me about Waverley Park. Again I reinforce the fact that the Australian Football League, just like any other organisation in the state, is required to undergo a planning process, which it has done. No doubt it will continue to seek what it wants to achieve. I continue to have dialogue with the AFL on a range of issues, and this is one of them.

The Honourable Maree Luckins requested additional funding for the Monash City Council aquatic facility. I appreciate that the Casey funding was $5 million, which was a pre-election commitment that has been fulfilled by the government. The honourable member may appreciate that when local councils tender for capital building programs there are often significant cost differences between the estimates and the realisation of the projects. No doubt the Monash City Council will need to manage that issue. If local government found all its projects turned out to be more expensive than anticipated, they would expect the government to be the cash cow.

The Honourable David Davis referred to sporting suppliers and retailers in his electorate. I appreciate that it may have been an appropriate question for the Minister for Small Business or the Minister for Consumer Affairs, but it gives me the opportunity to make the point that I have recently set up a sporting task force to examine the cost of the provision of sport. Honourable members may be aware that there are a number of significant pressures on all sports and the way those sports are provided to the community. No doubt the cost of compulsory competitive tendering introduced by the former Kennett government is significantly detrimental to grassroots sport and the

provision of sports. As well, the GST, additional water charges and the like have placed additional burdens on the provision of sport. The task force will consider a range of issues regarding the provision and cost of sport, and should other issues arise no doubt they will be brought to my attention.

Hon. R. F. Smith — On a point of order, Mr President, earlier this evening I raised a point of order objecting to comments by the Honourable Andrew Olexander about remarks made across the chamber by the Honourable Maree Luckins. I raised the point of order when Mr Olexander repeated those comments, thereby placing them on the parliamentary record. During the exchange on my point of order I said things I was asked to withdraw some time later by the Honourable Maree Luckins. I subsequently withdrew those comments. I now ask that the Honourable Maree Luckins also be asked to withdraw her inflammatory comments which were made by way of interjection and which were clearly heard by a number of honourable members. These comments were not only untrue but highly offensive to me.

The PRESIDENT — Order! The honourable member will have to tell me the nature of the comments so that I can rule on the point of order.

Hon. R. F. Smith — During the debate the Honourable Maree Luckins interjected that I had been convicted of sexual harassment. That is clearly untrue, and I respectfully ask you, Mr President, to ask her to withdraw those inflammatory and derogatory statements, which I find extremely offensive.

The PRESIDENT — Order! I was not in the chamber at the time so I am not aware what statements were made. I ask the Honourable Maree Luckins whether she made such a statement.

Hon. M. T. Luckins — On the point of order, Mr President, I do not recall using the word 'harassment'. I certainly intended to use the word 'discrimination'. If I used the word 'harassment' it was inadvertent, but I did mean to use the word 'discrimination' and what I was referring to was not untrue. I was referring to the fact — —

The PRESIDENT — Order! Whether it is true or untrue is not relevant to the matter before the house. I ruled earlier today about the nature of offensive remarks that a member finds objectionable. They can be made only by substantive motion. If the honourable member made a statement along the lines put by Mr Bob Smith I ask her to withdraw.

Hon. M. T. Luckins — I do not recall using the word 'harassment' and I invite you, Mr President, to listen to the tape to clarify the issue. If I used the word 'harassment' instead of 'discrimination', out of respect for Parliament I respectfully withdraw. I ask for your advice about what is on the tape.

The PRESIDENT — Order! I am at a disadvantage in that I did not hear the remarks. The Honourable Bob Smith has objected to certain words being used and there is now some dispute about the words used. I am left with no other position but to listen to the tape and report back to honourable members.

Hon. R. F. Smith — Further on the point of order, Mr President, regardless of whether the words used were 'harassment' or 'discrimination' I am equally offended.

Hon. C. A. Furletti — On the point of order, Mr President, I was in the chamber at the time and my recollection of the matter was that the Honourable Maree Luckins used the word 'discrimination' and in fact I may have used the words 'sexual harassment'.

Hon. T. C. Theophanous — Do you apologise for that then?

The PRESIDENT — Order! The Honourable Carlo Furletti is not the subject of the point of order.

Hon. R. F. Smith — Further on the point of order, Mr President, Mr Furletti referred to the Honourable Maree Luckins as Big Mouth. I note that she took no offence to that.

Honourable members interjecting.

The PRESIDENT — Order! Let us deal with the matter now before the house. Mr Bob Smith has objected to a matter that we all regard as serious — that is, the honourable member has been found guilty of an offence which is either harassment or discrimination. I understand that you are objecting to both words.

Hon. R. F. Smith — That is correct, because neither is true.

The PRESIDENT — Order! In that case I do not need to hear the tape. I ask the honourable member to withdraw.

Hon. M. T. Luckins — Out of respect for the house, I withdraw if the honourable member finds it offensive, but I — —

The PRESIDENT — Order! That is all that is needed.

Motion agreed to.

House adjourned 11.30 p.m. until Tuesday, 3 October.

QUESTIONS ON NOTICE

Answers to the following questions on notice were circulated on the date shown.
Questions have been incorporated from the notice paper of the Legislative Council.
Answers have been incorporated in the form supplied by the departments on behalf of the appropriate ministers.
The portfolio of the minister answering the question on notice starts each heading.

Tuesday, 5 September 2000

Transport: public transport revenue

613. THE HON. P. A. KATSAMBANIS — To ask the Honourable the Minister for Energy and Resources (for the Honourable the Minister for Transport):

(a) What was the monthly public transport revenue processed by Revenue Clearing House for its five shareholders in each month between September 1999 and February 2000.

(b) What was the revenue processed by the house in each of those months for — (i) Bayside Trains; (ii) Hillside Trains; (iii) Swanston Trams; (iv) Yarra Trams; and (v) the Department of Infrastructure on behalf of private bus operators.

ANSWER:

As the contracts signed by the Kennett government are subject to commercial in confidence clauses, I have been advised that the permission of the franchisees must be received before the information is released. Accordingly, I have instructed my department to seek permission to the release of the information.

I am advised that there needs to be some delay in the release of the information to enable franchisees to meet their statutory reporting obligation to shareholders in respect to release of financial results before they authorise release of the results in other forums. Accordingly it is expected that the information sought will be released late this month or early in October.

The minister will advise the honourable member separately when the information is available.

Premier: Cinemedia board appointments

636. THE HON. P. A. KATSAMBANIS — To ask the Honourable the Minister for Industrial Relations (for the Honourable the Premier): What is the name of each person appointed to the board of Cinemedia since 18 September 1999.

ANSWER:

I am informed that:

The question you have raised relates to the portfolio responsibilities of the Minister for Arts and should be directed to that minister.

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