PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE ASSEMBLY

FIFTY-FOURTH PARLIAMENT

FIRST SESSION

18 October 2001

(extract from Book 6)

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By authority of the Victorian Government Printer

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JOHN LANDY, AC, MBE

The Lieutenant-Governor

Lady SOUTHEY, AM

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Family and Community Development Committee — (*Council*): The Honourables E. J. Powell and G. D. Romanes. (*Assembly*): Mr Hardman, Mr Lim, Mr Nardella, Mrs Peulich and Mr Wilson.

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Scrutiny of Acts and Regulations Committee — (*Council*): The Honourables M. A. Birrell, M. T. Luckins, Jenny Mikakos and C. A. Strong. (*Assembly*): Ms Beattie, Mr Carli, Mr Dixon, Ms Gillett and Mr Robinson.

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Assembly — Clerk of the Parliaments and Clerk of the Legislative Assembly: Mr R. W. Purdey

Council — Clerk of the Legislative Council: Mr W. R. Tunnecliffe

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Director, Infrastructure Services: Mr G. C. Spurr

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FIFTY-FOURTH PARLIAMENT — FIRST SESSION

Speaker: The Hon. ALEX ANDRIANOPOULOS

Deputy Speaker and Chairman of Committees: Mrs J. M. MADDIGAN

Temporary Chairmen of Committees: Ms Barker, Ms Davies, Mr Jasper, Mr Kilgour, Mr Loney, Mr Lupton, Mr Nardella, Mrs Peulich, Mr Phillips, Mr Plowman, Mr Richardson, Mr Savage, Mr Seitz

Leader of the Parliamentary Labor Party and Premier:
The Hon. S. P. BRACKS

Deputy Leader of the Parliamentary Labor Party and Deputy Premier:
The Hon. J. W. THWAITES

Leader of the Parliamentary Liberal Party and Leader of the Opposition:
The Hon. D. V. NAPTHINE

Deputy Leader of the Parliamentary Liberal Party and Deputy Leader of the Opposition:
The Hon. LOUISE ASHER

Leader of the Parliamentary National Party:
Mr P. J. RYAN

Deputy Leader of the Parliamentary National Party:
Mr B. E. H. STEGGALL

Member	District	Party	Member	District	Party
Allan, Ms Jacinta Marie	Bendigo East	ALP	Leighton, Mr Michael Andrew	Preston	ALP
Allen, Ms Denise Margret [4]	Benalla	ALP	Lenders, Mr John Johannes Joseph	Dandenong North	ALP
Andrianopoulos, Mr Alex	Mill Park	ALP	Lim, Mr Hong Muy	Clayton	ALP
Asher, Ms Louise	Brighton	LP	Lindell, Ms Jennifer Margaret	Carrum	ALP
Ashley, Mr Gordon Wetzel	Bayswater	LP	Loney, Mr Peter James	Geelong North	ALP
Baillieu, Mr Edward Norman	Hawthorn	LP	Lupton, Mr Hurtle Reginald, OAM, JP	Knox	LP
Barker, Ms Ann Patricia	Oakleigh	ALP	McArthur, Mr Stephen James	Monbulk	LP
Batchelor, Mr Peter	Thomastown	ALP	McCall, Ms Andrea Lea	Frankston	LP
Beattie, Ms Elizabeth Jean	Tullamarine	ALP	McIntosh, Mr Andrew John	Kew	LP
Bracks, Mr Stephen Phillip	Williamstown	ALP	Maclellan, Mr Robert Roy Cameron	Pakenham	LP
Brumby, Mr John Mansfield	Broadmeadows	ALP	McNamara, Mr Patrick John [3]	Benalla	NP
Burke, Ms Leonie Therese	Prahran	LP	Maddigan, Mrs Judith Marilyn	Essendon	ALP
Cameron, Mr Robert Graham	Bendigo West	ALP	Maughan, Mr Noel John	Rodney	NP
Campbell, Ms Christine Mary	Pascoe Vale	ALP	Maxfield, Mr Ian John	Narracan	ALP
Carli, Mr Carlo	Coburg	ALP	Mildenhall, Mr Bruce Allan	Footscray	ALP
Clark, Mr Robert William	Box Hill	LP	Mulder, Mr Terence Wynn	Polwarth	LP
Cooper, Mr Robert Fitzgerald	Mornington	LP	Napthine, Dr Denis Vincent	Portland	LP
Davies, Ms Susan Margaret	Gippsland West	Ind	Nardella, Mr Donato Antonio	Melton	ALP
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Delahunty, Mr Hugh Francis	Wimmera	NP	Pandazopoulos, Mr John	Dandenong	ALP
Delahunty, Ms Mary Elizabeth	Northcote	ALP	Paterson, Mr Alister Irvine	South Barwon	LP
Dixon, Mr Martin Francis	Dromana	LP	Perton, Mr Victor John	Doncaster	LP
Doyle, Robert Keith Bennett	Malvern	LP	Peulich, Mrs Inga	Bentleigh	LP
Duncan, Ms Joanne Therese	Gisborne	ALP	Phillips, Mr Wayne	Eltham	LP
Elliott, Mrs Lorraine Clare	Mooroolbark	LP	Pike, Ms Bronwyn Jane	Melbourne	ALP
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Gillett, Ms Mary Jane	Werribee	ALP	Robinson, Mr Anthony Gerard Peter	Mitcham	ALP
Haermeyer, Mr André	Yan Yean	ALP	Rowe, Mr Gary James	Cranbourne	LP
Hamilton, Mr Keith Graeme	Morwell	ALP	Ryan, Mr Peter Julian	Gippsland South	NP
Hardman, Mr Benedict Paul	Seymour	ALP	Savage, Mr Russell Irwin	Mildura	Ind
Helper, Mr Jochen	Ripon	ALP	Seitz, Mr George	Keilor	ALP
Holding, Mr Timothy James	Springvale	ALP	Shardey, Mrs Helen Jean	Caulfield	LP
Honeywood, Mr Phillip Neville	Warrandyte	LP	Smith, Mr Ernest Ross	Glen Waverley	LP
Howard, Mr Geoffrey Kemp	Ballarat East	ALP	Spry, Mr Garry Howard	Bellarine	LP
Hulls, Mr Rob Justin	Niddrie	ALP	Steggall, Mr Barry Edward Hector	Swan Hill	NP
Ingram, Mr Craig	Gippsland East	Ind	Stensholt, Mr Robert Einar [2]	Burwood	ALP
Jasper, Mr Kenneth Stephen	Murray Valley	NP	Thompson, Mr Murray Hamilton	Sandringham	LP
Kennett, Mr Jeffrey Gibb [1]	Burwood	LP	Thwaites, Mr Johnstone William	Albert Park	ALP
Kilgour, Mr Donald	Shepparton	NP	Trezise, Mr Ian Douglas	Geelong	ALP
Kosky, Ms Lynne Janice	Altona	ALP	Viney, Mr Matthew Shaw	Frankston East	ALP
Kotsiras, Mr Nicholas	Bulleen	LP	Vogels, Mr John Adrian	Warrnambool	LP
Langdon, Mr Craig Anthony Cuffe	Ivanhoe	ALP	Wells, Mr Kimberley Arthur	Wantirna	LP
Languiller, Mr Telmo	Sunshine	ALP	Wilson, Mr Ronald Charles	Bennettswood	LP
Leigh, Mr Geoffrey Graeme	Mordialloc	LP	Wynne, Mr Richard William	Richmond	ALP

[1] Resigned 3 November 1999
[2] Elected 11 December 1999
[3] Resigned 12 April 2000
[4] Elected 13 May 2000

CONTENTS

THURSDAY, 18 OCTOBER 2001

QUESTIONS ON NOTICE

TUESDAY, 16 OCTOBER 2001

WEDNESDAY, 17 OCTOBER 2001

Thursday, 18 October 2001

The SPEAKER (Hon. Alex Andrianopoulos) took the chair at 9.37 a.m. and read the prayer.

NOTICES OF MOTION

The SPEAKER — Order! Are there any notices of motion?

Notice of motion given.

Attorney-General: conduct

Mr COOPER (Mornington) — I desire to give notice that tomorrow I will move:

> That this house condemns the Attorney-General for failing to keep his unequivocal commitment to the Victorian public to produce his travel diaries from his time as the federal member for Kennedy to — —

Honourable members interjecting.

Mr COOPER — I will start again. I move:

> That this house condemns the Attorney-General for failing to keep his unequivocal commitment to the Victorian public to produce his travel diaries from his time as the federal member for Kennedy to substantiate his claim that all of the travel he carried out at the expense of the Australian taxpayers during that time was on legitimate — —

Ms Davies — On a point of order, Mr Speaker, I seek your advice. I just saw the honourable member for Mordialloc imitating firing a pistol at somebody just after the honourable member for Mornington talked about — —

Honourable members interjecting.

The SPEAKER — Order! I ask the house to come to order so the Chair can hear what the honourable member for Gippsland West is saying.

Ms Davies — Under the circumstances in which we exist at the moment I find — —

Honourable members interjecting.

The SPEAKER — Order! The Chair cannot possibly rule on the point of order raised by the honourable member for Gippsland West because the Chair did not hear a word that was said due to the noise that is coming from the opposition benches. I ask for everybody's cooperation so I can hear the point of order.

Ms Davies — Under the circumstances in which we all function at the moment I find the gesture to be highly disturbing and offensive.

The SPEAKER — Order! There is a precedent set by Acting Speaker McGrath in his ruling on 19 March 1992 when a member, having drawn the attention of the house to a sleeping member, objected to an obscene gesture made to her by that member. The Chair stated that it was difficult to withdraw a hand gesture but asked members to reflect upon the code of behaviour that is expected of people of their stature. I shall use that precedent and ask for the cooperation of honourable members in not making hand gestures or clapping, as it is considered disorderly. I am not prepared to uphold the point of order raised by the honourable member for Gippsland West.

Honourable members interjecting.

Notices of motion interrupted.

SUSPENSION OF MEMBER

The SPEAKER — Order! Under sessional order 10 I ask the honourable member for Bentleigh to vacate the chamber for 30 minutes.

Honourable member for Bentleigh withdrew from chamber.

Notices of motion resumed.

Mr COOPER — I desire to give notice that tomorrow I will move:

> That this house condemns the Attorney-General for failing to keep his unequivocal commitment to the Victorian public to produce his travel diaries from his time as the federal member for Kennedy to substantiate his claim that all the travel he carried out at the expense of the Australian taxpayers during that time was on legitimate Parliament business. The house now calls upon the Attorney-General to produce those travel diaries immediately for scrutiny, and if he fails to do so to admit that he does not possess them and make immediate arrangements to refund the entire costs of the travel in question to the commonwealth Parliament.

PETITION

The Clerk — I have received the following petition for presentation to Parliament:

Electricity: supply

> To the Honourable the Speaker and members of the Legislative Assembly in Parliament assembled:

The humble petition of the undersigned citizens of Victoria respectfully requests:

that the Victorian government immediately take responsibility for the planning and regulation of the state's electricity supply, this being a cornerstone of the Victorian state future. Therefore the government must implement a process of monitoring, evaluation and enforcement to ensure that the Victorian people are properly served by electricity generating and supply enterprises. This will ensure that all new power stations including the proposed station at Stonehaven are:

required to comply with the standards of the Australian Greenhouse Office;

subject to the control of a government enforcement office;

subjected to a full environment effects statement (EES);

subjected to a comprehensive process of community consultation during planning and development;

utilising technology and processes consistent with world best practice;

part of a state and national planning process to ensure the sustainable supply of electricity not totally dependent upon the use of fossil fuels for the profit of commercial enterprise.

And your petitioners humbly pray that their rights will be recognised and protected and, as in duty bound, will ever pray.

By Mr TREZISE (Geelong) (5683 signatures)

Laid on table.

Ordered that petition be considered next day on motion of Mr TREZISE (Geelong).

PRIVILEGES COMMITTEE

Right of reply

Mr LONEY (Geelong North) presented report on right of reply of Ms Deborah Jones, Ms Adriana Bowes and Mr Peter Turley, together with appendix.

Laid on table.

Ordered to be printed.

Mr LONEY (Geelong North) presented report on right of reply of Cr Arthur Athanasopoulos, together with appendix.

Laid on table.

Ordered to be printed.

PAPERS

Laid on table by Clerk:

Members of Parliament (Register of Interests) Act 1978 — Summary of Returns June 2001 and Summary of Variations Notified between 14 June and 30 September 2001 — Ordered to be printed

National Parks Act 1975 — Report on the workings of the Act for the year 2000–2001

National Parks Advisory Council — Report for the year 2000–2001

Preston Cemetery Trust — Report for the year 2000

Recreational Fishing Licence Trust Account — Report for the year 2000–2001.

BUSINESS OF THE HOUSE

Adjournment

Mr BATCHELOR (Minister for Transport) — I move:

That the house, at its rising, adjourn until Tuesday, 30 October 2001.

Motion agreed to.

MEMBERS STATEMENTS

Defence forces: overseas service

Dr NAPTHINE (Leader of the Opposition) — On behalf of the Victorian Liberal Party and all Victorians I offer full support to all Australian servicemen and women, particularly those who have been sent to participate in the global war against terrorism.

Our prayers and thoughts are with these service personnel and their families. We wish them well in their vital but challenging task.

We are confident that they are well trained, well equipped and strongly committed to defeating terrorism and we are confident that they will uphold the tradition throughout the last century of Australian forces across the world fighting for freedom and democracy.

We wish these servicemen and women well in their task, and we wish them all a speedy and safe return to their families and to Australia.

Leader of the Opposition: conduct

Mr ROBINSON (Mitcham) — An advertisement appeared in the *Portland Observer* last Monday,

15 October, which raises serious questions about the judgment of the Leader of the Opposition. The advertisement is for the federal member for Wannon, Mr David Hawker, and reads:

> David Hawker will be visiting Portland for constituent interviews from 4.00 p.m. tomorrow, Tuesday, 16 October 2001, at the office of the Honourable Dr Denis Napthine, MLA, 104 Percy Street, Portland.
>
> David Hawker — Listening and Delivering

The advertisement appeared 10 days after the federal election was called. It raises questions about the apparent misuse of state-funded resources for federal election purposes.

The Leader of the Opposition needs to explain this apparent misuse of his electorate office. Did he personally approve it? Did he clear it with parliamentary officers? What is the value of the office use to the Liberal candidate? Will the Leader of the Opposition declare it in accordance with the Commonwealth Electoral Act or will he seek the assistance of the honourable member for Mordialloc to call in the federal police?

Federal members receive generous allowances for all constituent purposes, and they should not be sponging off state taxpayers. If the Leader of the Opposition cannot manage his own office in accordance with the standards of the place, perhaps he should — —

Mr McArthur interjected.

The SPEAKER — Order! The honourable member for Monbulk!

Wimmera: investment

Mr DELAHUNTY (Wimmera) — The Wimmera electorate is not only the biggest in this state but is also one of Victoria's best-kept investment secrets. I mean investment in many things, including a great lifestyle. In October and November there are many events and activities which have made the Wimmera a great place to live, work and play. Two weeks ago I attended the Murtoa Big Weekend, which included the show, the art exhibition, the street market, and the Oktoberfest races. I have also visited many agricultural shows, including those at Murtoa, Horsham, Goroke and Kaniva. Many others have been on while we have been here in Parliament.

Last weekend in Horsham, which is Australia's tidiest town, there were many events, including the spring garden festival, the orchid show, the Awakenings visual arts exhibition, the highly acclaimed performing arts festival and the quilting show. There was also the Horsham Performing Arts Council performance of *Anything Goes* — please go up and see it. Included in the weekend was the two-day Horsham Racing Cup at the newly refurbished course.

In the next couple of weeks there will be the Warracknabeal Rodeo and Country Music Festival, the 150th anniversary celebrations of the Stawell Gift of Gold, and the Kanamaroo Festival.

Last Friday I attended Workco's 2001 awards night. Awards were given in six categories. The trainee of the year is Anna Stewart, who works in tourism at Ararat. The apprentice of the year is Damon Broadbear, a gardener at the Northern Grampians Shire. Congratulations to the chair, Greer Dellar, and her chief executive, John Ackland, their board and staff.

As honourable members can see, there are many things happening in the Wimmera. It is a great place to invest. Come on, government, invest in the Wimmera!

Liberal Party: Chisholm federal candidate

Mr STENSHOLT (Burwood) — I rise to express concern over the behaviour of the Liberal candidate for Chisholm, Ros Clowes, who has been passing herself off as a member of Parliament to state employees and clearly acting under false pretences. She visited the Mount Waverley police station and told them she is an MP! I have set the record straight for the police and told them that Anna Burke is actually the federal member for Chisholm. She also told the local paper, the *Whitehorse Gazette*, that she is an MP. This disturbing and sheer desperation of the Liberals to adopt such deceptive tactics is actually completely out of order.

The SPEAKER — Order! Stop the clock.

Mr Wilson — On a point of order, Mr Speaker, the honourable member for Burwood knows that he is misrepresenting the facts. I ask you to bring him back to order.

The SPEAKER — Order! That is clearly not a point of order.

Mr STENSHOLT — I also received a fax the other day from someone in Glen Iris who said they had received a flyer saying 'Support Ros Clowes, the Liberal candidate in Chisholm'. Glen Iris is not even in Chisholm! I went out and checked my mail and found that I had one, too. It said, 'Heading in the right direction'. Clearly, the Liberals are heading in the wrong direction down Toorak Road and clearly they

are going in absolutely the wrong direction with their candidate, given her deceptive behaviour!

Minister for Police and Emergency Services: performance

Mr WELLS (Wantirna) — This statement condemns the failure of the Minister for Police and Emergency Services to resolve the current pay dispute with Victoria Police. In February the opposition was briefed by the police association on the log of claims. Today we are eight months down the track and nothing has been resolved. This is another example of a do-nothing government. What is greatly disappointing is that the minister — —

The SPEAKER — Order! Stop the clock.

Mr Batchelor — On a point of order, Mr Speaker, I raise the issue of sub judice. I understand this matter is before the arbitration commission at the moment and I ask you to consider this matter.

The SPEAKER — Order! There is no point of order.

Mr WELLS — The Minister for Transport has demonstrated that not only is this a do-nothing government but that its members do not know anything!

What is greatly disappointing is that the minister never met with the police association prior to the work bans being implemented. Work bans were implemented on Monday, 13 August, and it was not until the Wednesday that he was embarrassed into meeting with the Victoria Police Association by a radio station. Work bans have now been in place for two months and still the minister fails to resolve this dispute. Liberal Party information is that the dispute is within $6 million of resolution and we want the minister to show some leadership and have the matter resolved.

While this pay dispute continues the minister is slowly but surely destroying the morale of our hardworking policemen and policewomen. If the minister cannot resolve this dispute the community will demand that the Premier find someone who can.

Ballarat: Pinarc volunteers

Mr HOWARD (Ballarat East) — Last Sunday I had the pleasure of attending a luncheon held to recognise the great work done by volunteers for the Ballarat organisation now known as Pinarc. The volunteers who were recognised on Sunday have helped to support families of children with disabilities. Sometimes those children have multiple disabilities. The volunteers help to support those families in a range of ways, particularly by acting as host families and providing much-needed respite for those families involved.

The volunteers who were recognised were presented with certificates and had the opportunity to come together and share at that luncheon. It was pleasing to see the range of ages and the range of people who are involved as volunteers. Some were teenagers aged over 17 and others were committed host families who have been involved for more than 20 years. I congratulate all of those volunteers for giving their services.

It was also pleasing to see Labor's federal candidate for Ballarat, Catherine King, attending the fair that was provided for families outside. She shared with those families, joined in the egg-and-spoon race and a great range of other activities, and was very well received by all the people I saw her interacting with. It put her in good stead as the next federal member for Ballarat because she understood the issues involved, talked to the people and — —

The SPEAKER — Order! The honourable member's time has expired.

Local government: translating services

Mrs SHARDEY (Caulfield) — The Bracks Labor government has cut funding for local government translating services without consulting councils. Local councils with large multicultural communities now receive less money and have to do more work to provide translating services. This amounts to a deceitful attempt to effectively reduce government expenditure on translating services for Victorians from a multicultural background without consultation with councils or the community.

In July of this year the Bracks government announced that translating services to local government would be funded by a direct grant system rather than by a line of credit through the Victorian Interpreting and Translating Service. Formerly councils used a line of credit administered by VITS. At the end of each financial year unused credits were distributed to councils that required them. This allowed councils with greater needs to access extra funding.

Under the Labor government's new system councils receive a fixed direct grant, which means they have no opportunity to obtain extra funds if they are required. As a result of the changes councils will also have to shoulder the extra costs of administering the new system. This bad idea may have been justifiable if all

78 councils had been consulted and had agreed to this, but that is not the case.

It seems that the Labor government has determined that a brief discussion by low-level managers from only 12 councils amounts to community consultation. It does not!

Darebin peace vigil

Mr LEIGHTON (Preston) — Last Friday night I attended the Darebin peace vigil, which was organised by the Darebin Ethnic Communities Council. In the words of the vigil's organisers:

> The purpose of the vigil is to call for a calm and balanced approach to apprehending the perpetrators of the violent acts in the US rather than the escalation of racial and religious vilification and hatred.

There were speakers from the Christian and Islamic faiths and representatives of various ethnic and community organisations. The vigil was well attended by a diverse and broad cross-section of the community in keeping with the fact that the City of Darebin is home to people from 126 countries who speak 118 different languages.

Darebin is a tolerant and harmonious community. Those attending the vigil were united in their desire for peace. Over the years Darebin has welcomed many new settlers from many different countries, and all its community representatives have a responsibility to ensure that these people feel safe and secure in their new community.

My congratulations go to Gabrielle Fakhri and the Darebin Ethnic Communities Council for organising the vigil. I would also like to acknowledge Rod Quantock for contributing his time as master of ceremonies. The vigil was an example of a local community coming together.

Member for Burwood: statements

Mr WILSON (Bennettswood) — In his contribution this morning the honourable member for Burwood made outrageous statements about the Liberal candidate for the federal seat of Chisholm, Ms Ros Clowes. The honourable member for Burwood made those statements in the house this morning because as a local member he has come to realise what an outstanding candidate Ros Clowes is.

Ros Clowes has run an outstanding campaign in the federal seat of Chisholm, and the Labor Party, and in particular the sitting Labor member, Anna Burke, and her friends and colleagues the honourable members for Burwood and Mitcham, are very worried about the type and quality of that campaign and what might result from it on 10 November.

It was interesting to hear the honourable member for Burwood talk about the misuse of resources. I would like to inform honourable members of the misuse of Anna Burke's office during the Burwood by-election. The then candidate and now honourable member for Burwood would know quite well how often he used Anna Burke's office for party-political purposes yet he has the gall to stand up in this house and talk about Ros Clowes going around and allegedly calling herself an MP.

The SPEAKER — Order! Stop the clock!

Mr Stensholt — On a point of order, Mr Speaker, I find the statements of the honourable member for Bennettswood referring to my actions and implying misuse of resources offensive, and I ask him to withdraw them.

The SPEAKER — Order! The Chair is of the opinion that the honourable member for Bennettswood was not impugning the character of the honourable member for Burwood. I do not uphold the point of order.

Mr WILSON — My final comment is that Ros Clowes has been described as the member for Chisholm in many newspaper reports because she has run such an excellent campaign. That is the image of Ros Clowes in Chisholm, because the average Chisholm constituent thinks she is the local member of federal Parliament.

The SPEAKER — Order! The honourable member's time has expired. The honourable member for Clayton has 55 seconds.

Song Kran New Year Festival

Mr LIM (Clayton) — Last Sunday I had the privilege of attending a meeting organised by the mayor of the City of Greater Dandenong, together with the leaders of the Sri Lankan, Laotian, Cambodian, Burmese, Thai and Indian communities. The purpose of the meeting was to jointly organise the Song Kran New Year Festival.

Song Kran is the new year celebration common to the countries of India, Burma, Thailand, Laos, Cambodia and Sri Lanka. It has its roots in the old Indian Hindu tradition, and the people of these countries have celebrated it for the past 2000 years. It is normally held around 13 and 14 April. I congratulate the mayor and

the community leaders on coming together. The celebration will be spectacular in terms of cultural variety, with dance, music, food and observance of the customs of these countries.

The SPEAKER — Order! The time set down for members statements has expired.

MELBOURNE CITY LINK (FURTHER AMENDMENT) BILL

Second reading

Mr BATCHELOR (Minister for Transport) — I move:

That this bill be now read a second time.

There are three main purposes of this bill.

The first purpose is to facilitate the issuing of licences to Transurban for the purposes of the project, in particular, for the installation and operation of recharge wells.

In order to fulfil its obligations to the state and to ensure that ground settlement is prevented or minimised, Transurban is required to implement a ground water management system. The installation and operation of recharge wells will form part of this system, which will ensure that the appropriate ground water equilibrium level is reached and maintained for the duration of the concession period. Such a system is necessary to protect private and public property in the vicinity of the City Link tunnels from ground settlement.

Transurban has identified in total nine sites for the implementation and operation of nine recharge wells, two of which are on reserved Crown land and seven on unreserved Crown land. All these sites are narrow strips of Crown land situated outside the land to be leased to Transurban.

Transurban is currently operating some temporary recharge wells under agreement with the relevant municipal authority. However, the tenure of these agreements will not extend to the duration of the concession period. Although licences may be issued under the Crown Land (Reserves) Act 1978, licence tenure is limited to three years.

The current powers and functions in the Melbourne City Link Act 1995 are insufficient to provide Transurban with a right to install and operate recharge wells for the duration of the concession period. In addition, the current licensing provisions in the act can only be exercised for the purpose of constructing works prior to completion of construction.

The bill provides for a licensing regime that will enable the state to grant to Transurban licences over the nine sites identified for recharge wells for the duration of the concession period. This regime will assist Transurban to operate the ground water management system during the concession period to minimise or prevent ground settlement.

The bill allows the relevant minister to issue a licence to Transurban to implement and operate the recharge wells after consultation with the minister administering the Crown Land (Reserves) Act 1978 to allow for the relevant interests of land managers to be taken into consideration.

The second purpose of the bill is to widen the application of the consumer protection provisions relating to ‘registered’ vehicles.

Currently, Transurban is obliged to provide certain information (‘consumer protection’ provisions) to its registered customers. However, as Transurban has developed and improved certain products, for example pass products, the scope of the current consumer protection provisions have become restrictive. As a result, Transurban is now exempting rather than registering such vehicles.

The bill supports government’s commitment to fair enforcement of the City Link arrangements by updating the consumer protection provisions. This will also enable Transurban, in so far as possible, to register those vehicles it currently has chosen to exempt.

The third purpose of the bill is to establish a director, Melbourne City Link, and conferring on the director functions and powers to enable the long-term management and monitoring of the City Link concession on behalf of the state.

The sections of the Melbourne City Link (Miscellaneous Amendments) Act 2000, which are yet to be proclaimed, provide for the state to succeed the Melbourne City Link Authority, which is currently facilitating the Melbourne City Link and Exhibition Street extension projects.

As part of the review requested by the government on public safety arrangements early this year due to the failure in the Burnley tunnel in February, the Melbourne City Link Authority was requested to provide advice on appropriate long-term arrangements for the management and monitoring of the City Link concession.

A range of options for the ongoing management and monitoring of the City Link concession were considered. The option of establishing a director, Melbourne City Link is the preferred option. This option would involve the establishment of a statutory role of a director, Melbourne City Link to be employed under part 3 of the Public Sector Management and Employment Act 1998, within the Department of Infrastructure.

The bill provides for the establishment of the director, Melbourne City Link, and confers on the director functions and powers to enable the ongoing management and monitoring of the City Link concession.

It is intended that the proposed new arrangements for managing the City Link concession come into effect on the cessation of the Melbourne City Link Authority.

I commend the bill to the house.

Debate adjourned on motion of Mr LEIGH (Mordialloc).

Debate adjourned until Thursday, 1 November.

TRANSPORT (ALCOHOL AND DRUG CONTROLS) BILL

Second reading

Mr BATCHELOR (Minister for Transport) — I move:

That this bill be now read a second time.

The main purpose of the bill is to strengthen the rail safety provisions of Victoria's transport legislation.

The bill provides that it is an offence for rail safety workers to be impaired by drugs whilst undertaking rail safety work. In this context 'rail' refers to both tram and train operations and a rail safety worker is a person working in a transport operations role, in particular on or near tram or train tracks.

The relevant drugs will be specified by gazette and initially will be the same as those specified under the recent changes to the Road Safety Act and will include prescription drugs.

The bill further provides that it is a condition of rail safety accreditation that an accredited company must ensure that their workers do not perform safety work after consuming alcohol or while being impaired by any other drug. The bill also creates a new offence with substantial penalties, if an accredited rail organisation fails to comply with that new condition.

The bill provides for a testing regime where authorised officers, nominated by the accredited organisations, will be able to conduct preliminary drug assessment tests to complement their existing ability to conduct preliminary breath tests on rail safety workers. Under these changes drug tests will be authorised where there is a reasonable belief that a rail worker's ability to perform safety work has been impaired by a specified drug. Where that belief exists, the test may be performed before a worker commences safety work, while performing such work or up to 3 hours after completing safety work.

Police officers will also be authorised to perform drug impairment tests following an accident or following a rail operations 'incident' which involves a breach of tram or train safety rules or operating procedures and the tram or train operator specifically request the police to conduct the test. A positive drug test by police following an accident may result in a prosecution.

The chief aim of these new provisions is the prevention of accidents — not the prosecution and punishment of workers. The purpose of the legislation is to provide an impetus for a significant cultural change to the rail industry as the bill addresses the control of prescription medication and 'over the counter' medication. Rail safety workers will be under a positive duty to ensure that their medication does not impair their ability to perform safety work.

Currently, accredited rail operators are required to have processes in place to deal with the problem of drugs in the workplace. Under these arrangements rail workers are already subject to drug and alcohol testing in the workplace in appropriate circumstances and are subject to disciplinary processes in the event of a positive reading. Accordingly, prosecution of the new offences to be introduced in the bill will primarily be used where there has been a rail accident or incident rather than where the presence of drugs is detected during safety work generally.

In the event of an accident or incident the causes will be investigated by the accredited organisation involved, the Department of Infrastructure and possibly the police. In those cases it may be appropriate to prosecute an individual worker if it can be shown that alcohol and/or drugs were contributing factors and where the train or tram company should have guarded against this risk by adequately ensuring compliance with their safety management system relating to the use of drugs and alcohol.

This bill does not seek to introduce significant changes to the procedures already in place in the rail organisations as it is already a condition of accreditation that organisations have in place a safety management system that deals with drug and alcohol controls. This bill provides a formal legal framework, including relevant offences, for those existing processes.

These reforms implement recommendations of inquiries into rail accidents at Ararat and Holmesglen which emphasised the need for improved alcohol and drug controls in the rail industry particularly with respect to prescription drugs.

The staff of the Department of Infrastructure responsible for rail safety accreditation have already undertaken, and will continue to undertake, a wide consultation and education program covering the rail industry as well as health professionals and the pharmacy industry. This program will ensure that there is a widespread awareness of these new provisions and the need for rail workers to be aware of the legal requirements.

Rail safety workers will be particularly targeted for education programs and, because of the high proportion of non-English-speaking workers in the industry, the material will be available in several languages. This part of the program will be especially important because, unlike the similar road safety provisions, this bill does not provide a defence to a drug impairment charge if the worker was following medical advice. This important difference is appropriate because of the substantial public safety ramifications of train and tram operations.

The bill contains procedural provisions relating to the carrying out of drug testing and these generally mirror those in the recent road safety legislation.

I wish to make a statement under section 85(5) of the Constitution Act 1975.

Clause 21 of the bill inserts a new section 255D into the Transport Act which states that it is the intention of section 96B(5) of the Transport Act (as inserted by clause 10 of the bill) to alter or vary section 85 of the Constitution Act 1975.

The effect of proposed sections 255D and 96B(5) is to confer an immunity on registered medical practitioners and approved health professionals (defined to include registered nurses) to prevent legal proceedings being brought against them in the Supreme Court for taking blood samples and/or being furnished with urine samples from safety workers suspected of being impaired by a drug while carrying out, or about to carry out, safety work.

These provisions have the same effect as similar provisions inserted into the Road Safety Act by the Road Safety (Amendment) Act 2000 which introduced the offence of driving a vehicle while impaired by a drug and the procedures for assessing whether a driver was, while driving, impaired by a drug.

The reason for the variation of the Supreme Court's jurisdiction is that the immunity is necessary to ensure that the drug control measures proposed by this bill are workable by enabling registered medical practitioners and approved health professionals to carry out the procedures to take blood samples and/or to be furnished with urine samples, which are necessary to detect drugs in the body of a safety worker, without the fear of litigation by safety workers disgruntled at being tested.

I commend the bill to the house.

Debate adjourned on motion of Mr LEIGH (Mordialloc).

Debate adjourned until Thursday, 1 November.

MARINE (FURTHER AMENDMENT) BILL

Second reading

Mr BATCHELOR (Minister for Transport) — I move:

That this bill be now read a second time.

This bill amends the Marine Act 1988 to:

abolish the Marine Board of Victoria and create the office of the Director of Marine Safety,

provide the minister with powers to establish any number of advisory committees to advise the minister and the director on any marine safety related matters referred to the committees,

provide improved powers related to marine safety inspections and investigations,

provide improved powers for the effective administration of local ports,

provide improved powers for the control of marine pollution, and

make other amendments to improve the operation of the act.

Director of Marine Safety

The creation of the new office of Director of Marine Safety will modernise and streamline the institutional arrangements for the management of marine safety in Victoria. The current Marine Board of Victoria will be replaced but the current staff of the marine board will be retained within the Department of Infrastructure. The bill provides for the director to perform the former functions of the board, as well as providing additional powers.

The director's powers have been modelled on similar provisions in the Transport Act and Occupational Health and Safety Act and include:

all powers necessary to carry out the statutory requirements of the act and its regulations,

to advise the minister on the operation and administration of the act, regulations, marine pollution legislation and marine safety matters and on any matters referred by the minister,

to provide guidance and information on marine safety matters,

to commission and sponsor research into marine safety matters, and

to promote education and training in marine safety.

The director, in carrying out any function or power, will be subject to the general direction and control of the minister. He or she will also comply with directions of the minister.

Advisory committees

Consultation with the public, marine industry, vessel owners and operators and stakeholders will be improved. The minister will have the power to establish any number of advisory committees to advise the minister and the director on any marine safety-related matters referred to the committees.

This will ensure that the key issues in marine safety are identified and that appropriate initiatives and programs are put in place. It will also give greater transparency to investments made in marine safety through marine grants.

Marine safety inspections and investigations

Inspection functions and powers in the Marine Act 1988 are very limited and not consistent with comparable legislative schemes. These powers relate to marine accidents and incidents involving vessels and breaches of the act and its regulations. The bill corrects this situation by improving the powers for inspectors (subject to reasonable protections for the public) and the investigation powers to be exercised by the Director of Marine Safety. Other provisions include provisions for appointment of inspectors, identity cards for inspectors and authorised officers and creating an offence to impersonate an inspector.

Section 83(a) is amended to make it clear that in order to go on board and inspect a vessel, an inspector has the power to stop the vessel. The bill also allows inspectors to detain vessels for up to 48 hours (or longer with authorisation from a magistrate) for the purposes of an investigation and to direct a person in charge of a vessel.

The provisions of section 84(1B) are extended to enable a marine licence or certificate to be suspended for up to 14 days (or longer if approved by the Victorian Civil and Administrative Tribunal) if an investigation is commenced. On completion of investigations, the director is given the power to access a wider set of powers including an ability to issue a reprimand, vary and impose conditions on a licence or certificate and the ability to publicly release all or part of an investigator's report.

Section 92, related to obstruction of inspectors, investigators, the director or authorised officers, is amended to make offences comparable to similar provisions in other legislation.

Local ports

The existing process of establishing a local port is complex and requires a series of ministerial appointments and orders under several pieces of legislation. The bill simplifies the process for establishing local ports and local authorities.

Currently, section 112 of the Marine Act relates to the functions and powers that local authorities may exercise in relation to local ports, by giving life to parts of the Port of Melbourne Authority Act 1958 as in force on 1 January 1995. Since the enactment of section 112 of the Marine Act, the Port of Melbourne Authority Act 1958 has been repealed and the regulations made under that act have sunsetted.

This situation has resulted in difficulties for local ports because there are no active heads of power under which new regulations may be made or previous regulations amended. There are also no penalties in the regulations.

The bill will provide local port authorities with the functions and powers to enable effective regulation and rules of conduct in relation to port safety, vessel traffic

management, port operations, protection and maintenance of port assets et cetera, with compliance obligations for persons using local ports and port facilities.

Marine pollution

The current marine pollution provisions of the Marine Act generally relate to oil spills. The bill extends these provisions to cover maritime chemical spills of other noxious and hazardous substances. This is consistent with national marine pollution response arrangements and contingency plans.

The Director of Marine Safety is provided with all relevant functions and powers, which previously have been provided to the marine board. The director's functions are extended to include the function of ensuring that there is adequate pollution response capability inside port waters, and for taking responsibility for the delivery of pollution response in state waters outside of ports. The director is also given clear powers to enter into contracts for the provision of marine pollution response capabilities, as required.

Miscellaneous amendments

The bill also makes a number of miscellaneous amendments to improve marine safety.

It widens the obligations of vessel operators to assist persons in distress.

It makes it an offence to interfere or tamper with a navigation aid. The proposed penalty reflects the importance of these critical aids to the safety of mariners and their vessels.

The director is also given powers to order the removal of an obstruction in navigable waters and, if necessary, remove the obstruction and recover costs from the owner of the obstruction or the person responsible for the obstruction.

The bill also provides additional regulation making powers to improve administration.

The bill is important in ensuring that Victorian waters are safer for the operation of vessels, their operators, passengers, other water users and the marine environment. It also improves the arrangements for the management of local ports.

I commend the bill to the house.

Debate adjourned on motion of Mr PERTON (Doncaster).

Debate adjourned until Thursday, 1 November.

PETROLEUM (SUBMERGED LANDS) (AMENDMENT) BILL

Second reading

Ms GARBUTT (Minister for Environment and Conservation) — I move:

That this bill be now read a second time.

This bill restores the Petroleum (Submerged Lands) Act 1982 to mirror status with the equivalent commonwealth act in accordance with the Offshore Constitutional Settlement of 1967.

The preambles of the Victorian and commonwealth petroleum (submerged lands) acts summarise the constitutional settlement that these acts implement. The acts provide for the exploration and exploitation of petroleum resources of submerged lands. By agreement between the commonwealth and the states, the commonwealth act applies to waters beyond the territorial sea adjacent to the state and the Victorian act applies to the territorial waters. It was further agreed that the breadth of those waters is 3 nautical miles.

It was also agreed that 'the commonwealth and the states should endeavour to maintain, as far as practicable, common principles, rules and practices in the regulation and control of the exploration for and the exploitation of the petroleum resources'.

As Victoria administers matters in both the state coastal waters and the contiguous commonwealth area, it is highly desirable to maintain the mirror status of the relevant commonwealth and state legislation governing these areas. Maintaining this objective will facilitate certainty and clarity and minimise regulatory compliance costs for affected industry parties, as well as minimising administrative costs for government. To this end, it is desirable to have identical language and corresponding numbering of provisions in both the commonwealth and state provisions as far as possible. Unnecessary differences in the two sets of laws would potentially act as a barrier to smaller industry players wishing to enter the petroleum exploration and exploitation industries, due to the need for them to allocate increased resources to determine their legal obligations and monitor their regulatory compliance. With this goal in mind, it is proposed to complement certain amendments to the commonwealth Petroleum (Submerged Lands) Act 1967 made through seven commonwealth amending acts since 1994.

Activity in the coastal waters has been relatively limited. One well, a small gas discovery, was drilled in

1967 near Golden Beach, and a small amount of seismic data has been acquired.

The major investment occurring under the act has been the seven pipelines which cross the coastal waters in the Gippsland Basin, built by Esso-BHP for the transport of oil and gas from the offshore fields to the Longford plant. There are four current proposals for pipelines that will cross the coastal waters, three of which are in the Gippsland Basin.

There are currently no exploration permits in the coastal waters. There has however been an upsurge in interest in exploration and development in waters off Victoria and it might be expected that some of that interest will extend to the coastal waters. This legislation will ensure consistency between state and commonwealth acts, reducing the complexity facing explorers and developers.

The bill creates infrastructure licences.

This will allow production facilities to be built outside of production licence areas, for example for a single facility to service a number of smaller fields. It also allows a facility to continue after production in a production licence area had ceased, providing for extended use of infrastructure.

The bill will strengthen the work program bidding system.

Work program bidding for exploration acreage is preferred as the process that leads to the best exploration outcomes. Rather than bidding cash for areas, companies bid a guaranteed work program that they will undertake. This makes capital available to undertake exploration rather than having acreage tied up as real estate with no commitment to actually undertake exploration. The current work program bidding process is to be strengthened.

Bids for exploration acreage are often by joint ventures. Amendments will enable applications to continue if one party in a joint venture withdraws.

If there has been more than one bid for an area, then the effect of a bid group withdrawing prior to an award of the acreage will be that the process can continue as if that group had not bid. This will enable a grant of a permit to be made without having to restart the advertising process.

Compliance with work programs is strengthened. If an application is made to surrender a permit and the work program bid by the permit holder has not been completed, then the permit holder will be taken not to have complied with the conditions of the permit.

The bill limits the number of renewals of exploration permits.

This will provide for greater turnover in acreage and access to that acreage for more players. Permits will be granted for an initial term of six years. At the end of that time there will be a relinquishment of 50 per cent and the remainder will be renewed for a further five years. The minimum size that can be renewed is four blocks and this only once. At the end of the five-year term of a four-block area, the permit is surrendered.

The bill improves the rights of title holders.

When a discovery is made in an exploration permit, the title holder will make an application for a retention lease or a production licence. If that application is made near to the time that the permit would need to be surrendered because it was unable to be renewed, an amendment will ensure that the permit continues until a decision has been made by the minister.

An amendment will also enable rights and responsibilities conferred by a permit or lease to be suspended if it is in the interests of the state.

If a person has discovered petroleum and has complied with the conditions of the permit or lease and provided information required, then the minister must grant a production licence. An amendment will provide that, if the application is refused because inadequate information has been provided or if the minister is not satisfied that a block in the application contains petroleum, the minister must give written reasons for the decision. This will improve transparency in decision making.

The bill updates arrangements for pipeline licences.

Amendments will clarify that pipeline licences can be held by non-holders of a production licence. It will also be made clear that the petroleum within the pipeline can originate from outside of the adjacent area. This will provide for a more certain title for pipelines such as the Tasmanian pipeline where Duke Energy is not a production licence-holder.

A pipeline proposed to run through another person's production licence area will require the consent of the production licence-holder or a ministerial override. This will ensure that a pipeline is not located where, for example, a production facility is proposed.

Water and secondary lines will no longer be required to have pipeline licences. These lines are associated with infrastructure and are best addressed in regulations.

The bill introduces indefinite terms for production and pipeline licences.

The term of production licences and pipeline licences is to be changed from 21 years to an indefinite term with cancellation if there are no operations for five years. Provisions relating to removal of equipment continue. This reflects the existing situation where there is an as-of-right renewal if the operator is complying with the legislation. It also means that in the case of small fields with a life of only, say, five years, companies cannot retain the licence to prevent others from gaining access to an area. Production licence-holders will have the opportunity to convert to a retention lease if the field becomes uncommercial but is likely to become commercial within 15 years.

The bill creates a new offence of intentionally or recklessly interfering with or damaging operations.

The maximum penalty for this offence is 10 years imprisonment. This reflects the potential risk that such an action could bring. In the case where damage or interference may be of a less serious nature, section 133 of the act provides that such offences may be determined by a court of summary jurisdiction. The penalty in this case would not exceed $10 000 or two years imprisonment.

The bill rewrites, in clearer terms, the confidentiality periods relating to release of information provided by companies.

Data acquired by companies is required to be submitted to the government and, after a confidentiality period, is made available to the industry thus reducing duplication of acquisition and providing a marketing tool for the government. The existing legislation in relation to the length of the confidentiality periods lacks clarity and the proposed wording makes the provisions clearer.

The confidentiality provisions are also extended to address three-dimensional seismic data recorded on a non-exclusive basis by a contractor. This data is usually recorded by a contractor in open acreage prior to release of the area. The data is sold to companies wanting to bid. This data is valuable in promoting an area to the industry and so, to encourage its acquisition, the amendment provides a longer confidentiality period.

The bill revises cash bidding arrangements for surrendered areas in which petroleum has been discovered.

Cash bidding for areas is provided for in the special case where a surrendered area contains petroleum. A 10 per cent deposit is required with an application. An amendment will allow this deposit to be in the form of a bank guarantee. A further amendment removes the discretion to refund the application fee if an offer of the area is not accepted. This will encourage genuine applications. Successful cash bids will no longer be able to be paid by instalment.

The bill makes various other minor and technical amendments.

The ability in the act of the minister to direct in relation to provision of particular information in the event of a discovery or on the surveying the location of a well will be removed. This ability will continue in the general ability to give directions.

The requirement to seek special consent when drilling within 300 metres of a title boundary will be removed. The effects of such drilling can be considered in the overall approval of the well.

The requirement of an access licence applicant to give one month's notice if the affected title-holder gives written consent to access will be removed.

The Geocentric Datum of Australia for surveying is adopted. Requirements to use approved forms are removed. Monetary penalties are changed from fixed values to penalty units. Gender-specific terms are replaced with gender-neutral terms.

In putting forward this bill the government is mindful of the economic benefit that the petroleum industry can bring to this state. The bill seeks to develop a more competitive market for exploration and production of this state's petroleum resources which in turn will contribute to a more competitive supply market for petroleum.

This bill restores the Victorian Petroleum (Submerged Lands) Act to mirror status with the equivalent commonwealth act making compliance and participation easier for companies and providing greater certainty for industry investment.

I commend the bill to the house.

Debate adjourned on motion of Mr PERTON (Doncaster).

Debate adjourned until Thursday, 1 November.

ENERGY LEGISLATION (MISCELLANEOUS AMENDMENTS) BILL

Second reading

Ms GARBUTT (Minister for Environment and Conservation) — I move:

That this bill be now read a second time.

This bill is designed to further clarify the regulatory framework for the electricity and gas industries. In the last session of Parliament, the government completed its restructuring of gas and electricity legislation with the passage of the Gas Industry Act 2001. This bill represents a further step in refining the regulatory framework in accordance with this government's energy policy.

The bill is consistent with the government's objectives relating to the gas and electricity supply industries, including the provision of an effective and workable safety net for domestic and small business customers. The bill streamlines the existing default contract provisions in both the Electricity Industry Act 2000 and the Gas Industry Act 2001. These provisions are relevant where a customer moves into premises and takes supply of gas or electricity without having entered into a contract with the relevant retailer or, having entered into a market contract with the relevant retailer, subsequently cancels that contract during the cooling-off period. The bill also makes amendments to the supplier of last resort provisions in both the Electricity Industry Act 2000 and the Gas Industry Act 2001.

The bill also provides for technical amendments to the electricity cross-ownership restrictions as they apply to new generation facilities; the approval process applying to any retail gas market rules submitted by the Victorian Energy Networks Corporation or a gas distribution company to the Office of the Regulator-General; and the scope and operation of the cost recovery power contained in section 68 of the Gas Industry Act.

I turn now to each part of the bill. Part 1 of the bill simply states the purpose of the bill, and provides for its commencement.

Part 2 of the bill contains amendments to the Electricity Industry Act 2000.

Clause 6 deals with the operation of the supplier of last resort provisions, and clarifies that terms and conditions approved by the Office of the Regulator-General in relation to supplier of last resort arrangements may also provide for the ongoing supply of electricity following the expiry of the three-month period fixed by section 27 of the Electricity Industry Act.

Clause 7 consolidates the existing provisions of the Electricity Industry Act relating to the formation of deemed contracts where customers move into premises and take supply of electricity without first formalising their contractual arrangements. Clause 7 provides that, in these circumstances, the customer will be deemed to have a contract for the supply and sale of electricity with the licensee responsible for those premises for the purposes of wholesale electricity market settlement. Clause 7 also provides for such a deemed contract to arise where the customer entered into a contract with the relevant retailer prior to entering premises but then exercises its right to cancel the contract during a cooling off period set by the Fair Trading Act 1999 or by the Essential Services Commission (the successor to the Office of the Regulator-General) through its regulatory instruments. In each case, the tariff, terms and conditions that will apply are those that would apply if that customer were a party to a contract under section 37 of the act. In addition, the present provisions provide for when these deemed contracts come to an end. Clause 7 provides that the Office of the Regulator-General's successor, the Essential Services Commission, may determine additional events upon which the deemed contracts come to an end — such as the receipt of two electricity bills, reflecting the end of two billing cycles.

As I noted earlier in this speech, the bill modifies the electricity cross-ownership provisions as they apply to the development of new generation facilities. Currently, the Electricity Industry Act 2000 provides that an existing generation or distribution company does not hold a prohibited interest as a result of holding an interest in another generation company which has established a new generation facility. However, as presently drafted it is technically possible for the new generation company to itself hold a prohibited interest as a result of the operation of the Corporations Act.

Clause 8 therefore proposes an amendment to make plain the new generation company's entitlement to benefit from the exemption in section 68(8A) of the Electricity Industry Act 2000. This amendment is consistent with the government's objective of encouraging the development of new generation capacity in Victoria.

In addition to the above provisions, part 2 of the bill contains various miscellaneous provisions. Clause 3 ensures that the provision in the Electricity Industry Act making it relevant legislation for the purposes of the

Office of the Regulator-General Act 1994 is aligned with the equivalent provision in the Gas Industry Act 2001. Clauses 4 and 9 make minor amendments consequential to clause 3 and the enactment of the Essential Services Commission Act 2001. Clause 5 makes a minor amendment consequential to clause 7.

Part 3 of the bill amends the Gas Industry Act 2001.

Clause 11 replicates clause 6 for the gas industry. It deals with the operation of the supplier of last resort provisions, and clarifies that terms and conditions approved by the Office of the Regulator-General in relation to supplier of last resort arrangements may also provide for the ongoing supply of gas following the expiry of the three-month period fixed by section 34 of the Gas Industry Act.

Similarly, clause 12 replicates clause 7 for the gas industry. Clause 12 consolidates the existing provisions of the Gas Industry Act on the formation of deemed contracts where customers move into premises and take supply of gas without first formalising their contractual arrangements. It will also arise in circumstances where the customer entered into a contract with the relevant retailer prior to entering premises but then exercises its right to cancel the contract during a cooling-off period set by the Fair Trading Act 1999 or by the Essential Services Commission through its regulatory instruments. In each case the tariff, terms and conditions that will apply are those that would apply if that customer were a party to a contract under section 44 of the act. In addition, the present provisions provide for when these deemed contracts come to an end. Clause 7 provides that the Office of the Regulator-General's successor, the Essential Services Commission, may determine additional events upon which the deemed contracts come to an end — such as the receipt of two gas bills, reflecting the end of two billing cycles.

Clause 13 amends section 65 of the Gas Industry Act 2001 to clarify that the Office of the Regulator-General can require changes to any retail gas market rules submitted to it by Vencorp or a gas distribution company for approval.

Section 68 of the Gas Industry Act 2001 provides for cost recovery by the distribution companies of the costs they incur in relation to implementation and development of retail gas market rules. Clause 14 amends this section to clarify the intended scope and operation of that cost recovery power.

Clause 15 allows for Vencorp to provide systems and services relating to full retail competition outside of the state. This amendment recognises Vencorp's substantial contribution to the implementation of full retail competition in Victoria and the value that this work may hold for other jurisdictions. It will allow other jurisdictions to benefit from Vencorp's expertise in operational aspects of a competitive retail gas market and may ultimately permit gas market participants to benefit from greater national harmonisation. The provision of these services outside of Victoria is subject to the approval of the minister, following consultation with the Treasurer.

Clause 16 corrects minor errors.

I commend the bill to the house.

Debate adjourned on motion of Mr CLARK (Box Hill).

Debate adjourned until Thursday, 1 November.

JUDICIAL REMUNERATION TRIBUNAL (AMENDMENT) BILL

Second reading

Mr HULLS (Attorney-General) — I move:

That this bill be now read a second time.

Equality before the law requires the impartial administration of justice. Our judges are required to treat all persons who appear before our courts as subject to the same body of settled law. This is a fundamental principle of our democratic society.

Impartiality requires a judiciary which is independent of both the Parliament and the executive arm of government. This separation of powers is a precondition of the liberty of individual citizens.

Judicial independence ensures judicial impartiality by guaranteeing the freedom of the judicial branch of government from unwarranted intrusions by the legislative and executive branches of government.

In our democratic tradition, judicial independence has been secured by two important conventions. The first is by providing judges with security of tenure. Under our system of government judges hold office while they are of good behaviour and can only be removed by Parliament.

The second is by providing judges with security of remuneration. For the last 300 years — since the Act of Settlement 1701 — the remuneration of judges has been secured by being charged as a permanent appropriation on the Consolidated Revenue Fund.

Judges' salaries do not form part of departmental budgets; nor are they subject to a vote of the Parliament. In addition the salaries of serving judges may not be reduced. These measures are designed to avoid the threat of coercion by Parliament.

In Victoria the remuneration of judicial officers is determined by the Judicial Remuneration Tribunal Act 1995. This act establishes the Judicial Remuneration Tribunal (JRT) to inquire into and report on the remuneration of judges, masters, magistrates and tribunal members.

In its February 2000 report the JRT expressed concern that the system under which it operated was 'most unsatisfactory'. Following the report, the Department of Justice commissioned a review of the judicial remuneration structure by Mr Frank Honan. The Honan report found that:

> the JRT lacked an appropriate level of independence and that this had a consequential impact on the judicial independence of Victorian judicial officers;
>
> Parliament lacked a significant role in the determination of judicial salaries; and
>
> final decisions on judicial remuneration rest with the executive by allowing the determination of the Attorney-General to be substituted for those of the JRT. This relationship was inappropriate in the context of the existing constitutional conventions.

The Honan report identifies the following main issues.

Hierarchy of powers

In Victoria, the JRT may only make recommendations to the government as to salaries and allowances. The Attorney-General can vary a recommendation by tabling a statement in Parliament. Apart from South Australia, the decisions of Australian remuneration tribunals in other jurisdictions are binding and can only be disallowed by either house of Parliament. In South Australia, determinations are binding and can only be altered by special act of Parliament. The report concluded that on an objective assessment the Victorian tribunal is the least independent in Australia. Further, there has been a greater non-acceptance of recommendations on judicial remuneration by previous Victorian government's than in any other jurisdiction.

The final decision relating to the size of any increase in judicial salaries rests with the executive government through the Attorney-General. The report indicates that this system does not adequately safeguard the independence of the judiciary. Additionally, the current system does not give Parliament an effective role in the determination of the level of remuneration.

In order to deal with this issue, the bill will give the JRT a hierarchy of powers — determinative, recommendatory and advisory.

The first tier will give the JRT power to make determinations with regard to judicial salaries and allowances. These determinations will not be subject to disallowance except by either house of Parliament. This amendment will bring Victoria into line with the position adopted by the majority of other states.

The second tier will give the JRT recommendatory power in relation to conditions of service such as leave, travel entitlements and reimbursement of work-related expenses. The Attorney-General will have the ability to accept or reject recommendations of the JRT. If the JRT's recommendations are not accepted or the Attorney-General intends to vary the recommendation, the Attorney-General must issue a statement to Parliament within 10 days of tabling the report containing the recommendation, giving reasons for varying the recommendation or not accepting it.

The third tier allows the Attorney-General to make specific references to the JRT for an advisory opinion on particular aspects of judicial remuneration.

Inclusion of VCAT

At present, the jurisdiction of the JRT as defined in the JRT act is limited to judges and masters, magistrates and coroners, although the act provides that the Governor in Council may make an order requiring the JRT to enquire into the remuneration of members of a tribunal. In 1997 the JRT, by order of the Governor in Council, inquired into salaries and allowances of members of various tribunals that now comprise VCAT. A further inquiry into VCAT salaries and allowances was undertaken by the JRT in 2000. As VCAT members perform work of a judicial nature, it is appropriate that they are included in the JRT act on the same basis as other judicial officers. This is consistent with the recommendation contained in the Honan report.

Membership of JRT

The Honan report recommends that the exclusion of judges and retired judges from JRT membership would create a more transparent judicial remuneration system. The report also concludes that it would be appropriate to exclude any person in the service of the Crown. This would again strengthen the independence of the JRT. Apart from excluding these persons from membership,

there should be no other qualifications set out in the legislation. The bill implements the substance of these recommendations. However, the bill does make provision for the Commissioner for Public Employment to be appointed as a member of the JRT, notwithstanding the general exclusion of Crown officers from membership.

Publication and reporting

Under the current system, reports of the JRT must be tabled in each house of Parliament. This is the only legislative mechanism currently available to inform the public of the contents of the JRT's reports. The Honan report found that this system can result in a considerable lapse of time between the tribunal's delivery of its report and public knowledge of its contents. The most extreme example of this occurred in 1996, when there was a nine-month delay between the JRT delivering its report to the Attorney-General and the report being tabled in Parliament. To overcome these problems, the bill provides that JRT reports are to be published in the Government Gazette within 21 days of receipt by the Attorney-General.

However, it is important that JRT reports continue to be tabled in Parliament. This will ensure that Parliament is informed of the JRT's report in a timely manner. Accordingly, the bill preserves the requirement for reports to be tabled in Parliament. Parliament will have 15 sitting days to consider reports and may disallow them if this is required in the public interest. This follows procedures in other Australian jurisdictions.

Principle or factors for the consideration of the JRT

The bill sets out a number of factors to be considered by the JRT in making its determinations, including the need to maintain the judiciary's standing in the community, the need to set a level of remuneration necessary to attract and retain the best candidates to judicial office, and various economic factors. The bill also requires the JRT to consider issues specific to Victoria, such as Victoria's economic circumstances, and gives the JRT the flexibility to take other relevant local factors into account when making a determination.

Inclusion of these factors in the act will ensure that the JRT addresses core issues in making its determinations, particularly given that the JRT will make determinations on levels of judicial remuneration, not merely recommendations.

Conclusion

This year marks the 300th anniversary of the Act of Settlement. The act contains the foundation principles of our constitutional system of government, and further defines the relationship between the judiciary and the legislative and executive arms of government. It is an ancient piece of legislation that still resonates in the modern world.

The bill will re-establish the constitutional relationship between the judiciary and the Parliament on issues of judicial salaries and allowances in line with Act of Settlement principles. It removes the current inappropriate relationship with the executive arm of government.

By so doing the bill enhances judicial independence in Victoria and ensures that our courts and tribunals will continue to operate impartially and uphold our constitution and democratic principles.

I commend the bill to the house.

Debate adjourned on motion of Dr DEAN (Berwick).

Debate adjourned until Thursday, 1 November.

BUILDING (AMENDMENT) BILL

Second reading

Debate resumed from 17 October; motion of Mr THWAITES (Minister for Planning).

Mr CARLI (Coburg) — I support the Building (Amendment) Bill. It contains a series of amendments to the Building Act that are distinct and important, particularly as the government is reforming the planning and building regulations and the whole basis of planning in this state. The bill is an integral part of that.

Yesterday the honourable member for Hawthorn criticised Rescode, which was introduced by this government, as being far too adversarial. It is considerably less adversarial than what was there before. We know what was in the planning system before — with the *Good Design Guide*, Viccode 1 and Viccode 2 there was enormous social conflict and several movements emerged which saw the system as adversarial. With Rescode the government is seeking to ensure that there are consistent standards, certainty, and that neighbourhoods and neighbourhood characters are protected.

Largely Rescode has been supported by the various stakeholders. One cannot deny that there will always be a level of conflict within the planning system. Clearly developers want to build, and there are people who want to limit that development or who have issues of local amenity or of protecting local character. The government does not want to stop development or medium-density housing, particularly in areas around public transport and in consolidating the city. With Rescode the government is ensuring consistency and standards. Part of that is to utilise the building code and the Building Act.

Before the changes that were undertaken with the introduction of Rescode the building system was not only extremely prescriptive but also did not do very much to defend local amenity. It did nothing to defend overlooking and overshadowing, which are the common complaints. The building code did not protect the local amenity of neighbours because houses on allotments of 300 square metres, and in some councils 500 square metres, did not need a planning permit. Rescode is about rectifying that. It is about utilising the planning scheme and the building regulations to ensure we are protecting neighbourhoods and the rights and amenities of people.

Rescode is different from the previous codes. The bill will ensure the inclusion into the regulations of one clear tool of Rescode, which is to ensure that provisions for planning schemes are built into building regulations. That is a component of Rescode. Rescode does not exist as one document; it is a series of tools that have been made available to local government to provide a level of certainty to developers and also to protect neighbourhoods. It is important to recognise that this amendment to the Building Act to allow for the incorporation of planning schemes is just one part of Rescode — but it is an important part.

Last night the honourable member for Wimmera was concerned about the cost of Rescode and the need for training. Training is a cost, but it is important to note that part of Rescode contains a strong training regime, particularly among building inspectors and building surveyors, because up to now they have had a limited role in protecting neighbourhoods and local amenity.

Up to now they have been involved in fairly prescriptive issues such as fence-line distances and heights, which although important have not dealt with major concerns like overshadowing and overlooking. I do not believe we should be too concerned about the fact that there is a cost associated with training. It is because we are improving the whole planning and building system in this state that we want people to be trained. It is a credit to this government that it will not only build certainty and decent standards into the system but also ensure that councillors, planners and building inspectors are trained to understand how these tools work and how they are best utilised. It is a necessary part of the process.

I do not think it is a fair complaint that there is a cost associated with that, because it will mean an improved planning system. More importantly, it has significant public approval. We will be much better off to pay the costs of training than to continue with the social conflicts and dissent that were around during the period of the previous government in relation to buildings, particularly buildings of medium density in the inner city.

The reason we are seeking to incorporate planning schemes into the building regulations is to enable councils to vary the six Rescode standards. Basically those standards are for street setbacks, building heights, site coverage, side and rear setbacks, private open spaces and front fence heights. These standards can be varied by councils. As I said, Rescode has to be seen as a toolbox for providing local variation and for utilising both the Building Act and the Planning and Environment Act. It will protect neighbourhood character, which is an important innovation. It will ensure that there are consistent and well-understood standards. The development industry wants certainty; it does not want ad hoc decision making. The industry does not want to have to function at the whim of the Victorian Civil and Administrative Tribunal (VCAT). The development industry wants consistency, and the community wants consistency and the protection of neighbourhood and local amenity.

We as a government are very proud of Rescode, and we are very proud of the role the Minister for Planning has had in driving it. We are very involved in our local communities. Certainly I am involved in my local community to ensure that Rescode is well understood and that we educate not only the professionals but also members of the community to realise what a breakthrough it has been.

The amendment in clause 3, which was largely dismissed by the honourable member for Hawthorn — in fact he mocked it — will change the name of the Building Control Commission to the Building Commission. I recognise that his comments were frivolous and that they may have been an attempt at banter and good humour, but this name change is important because it recognises the leadership role of the new Building Commission and also what the industry wants. It recognises that the Building Control

Commission will no longer be what it was — it will no longer simply be about controls. Instead it will be about leadership generally, about the capacity for research and development and about leadership in innovation for the building industry.

It is also exactly what the industry wants, because the government has had dialogue with the industry. It would serve the opposition well if its spokesperson also had dialogue with the industry and recognised that although this may seem to be just a symbolic change, it is in fact a very important change. It acknowledges that the government through the Building Commission will be not only regulating the building industry but also promoting better building standards and best practice and ensuring that good information is available and the industry's professionals are undertaking research and training.

We in this house should not be frivolous when we deal with name changes of this type. This name change is certainly indicative of a shift — some may say a paradigm shift — towards leadership, innovation, information, research and training. Those components will ensure that we will continue to have one of the world's leading building industries and one of the most innovative.

A further comment made by the honourable member for Hawthorn yesterday was that the professionals in local government, planners and builders are overworked. Clearly, they are overworked, because there is a building boom in this state as a result of the large growth in population and confidence. However, the building boom does not involve the same level of conflict that we had previously. We are now experiencing one of the greatest building booms in the last 10 years, but we are not experiencing the same conflicts as those in the late 1990s, when virtually any development led to huge public meetings and disagreements. Instead we are seeing a much more cooperative situation. No doubt there is always some conflict inherent in the planning system, but it now occurs within a much better, less ad hoc framework. It is a small but important change and I am pleased to be supporting it, particularly given my personal interest in town planning.

Clause 6 inserts new section 15A into the act to provide for swimming pool safety controls. This provision has been greeted well by all speakers in this debate so far. It is one of the great tragedies that we have drowning as one of the common causes of death of young children, especially children under five years of age. Between October 1999 and January 2000 seven children under the age of five drowned in privately owned swimming pools and spas. That is a tragedy; and when you consider that in 1994 we changed the building regulations to ensure that spas and swimming pools in private homes were fenced it becomes somehow more tragic.

The legislation providing for the fencing of pools has loopholes through which people who leave gates open or maintain inadequate safety barriers to protect children can escape punishment. This amending legislation uses the big stick to ensure that gate closers, locking devices and other safety devices associated with pools are in place and are utilised — that is, it places an obligation on people installing swimming pools and owners of pools to utilise safety devices that are installed and provides a large maximum fine. It is a big stick, but it is there to protect our children. The legislation has been greeted with great support in this house. What is happening is a huge tragedy, and it is only made worse by the fact that we already have legislation that forces people to have a safety fence but does not force them to use the fence to its maximum effect.

We as a government have a commitment to protecting the lives of young children. We recognise there is a need to improve the controls on swimming pool barriers. The proposed amendments will allow regulations to be made and introduced that will ensure that requirements are met, and that if they are not met there will be a big stick utilised.

The bill makes a number of further important but small changes that have already been covered quite well by previous speakers. The opposition and the National Party do not oppose the bill. One of the issues raised by the honourable members for Hawthorn and Wimmera was the membership of statutory bodies as provided in clause 8. The honourable member for Hawthorn felt it seemed unnecessary to have consumers or legal practitioners on those boards and said that the boards had not asked for them. The basis of good public policy is not to wait for statutory bodies to make such requests; it is to ensure that the real interests of consumers are represented. The membership of the proposed committees will reflect that principle, and the involvement of consumers in the building industry will raise the level of consumer confidence.

The point about bringing legal practitioners onto the statutory bodies is that because those bodies make decisions about elements of the building industry they need to be able to bring some legal expertise into play for the protection of the rights and interests of people. The provision for representation of consumers and legal practitioners on statutory bodies is good public policy

because it better supports people's interests. It is important that we set up these bodies. The building sector is a fast-growing area, and has had difficulties in the past affecting the confidence of consumers, builders and insurers. It is important that all stakeholders are represented. The legislation demonstrates the difference between honourable members on this side of the house and opposition members, who question the need for the addition of key consumer and legal representatives on statutory bodies.

I will not treat the other minor amendments in the bill in any detail because they are largely supported by honourable members, including members of the opposition and the National Party. They are reasonably small and are fairly technical. It is worth mentioning, however, that the proposed amendments to the Building Act demonstrate a fundamental part of the Labor platform in this state, along with Rescode, which is about certainty in planning and building schemes, defence of neighbourhood character and protection of local amenity. Even more importantly, Labor legislation in this area leaves the development industry quite clear about its obligations and about the standards that must be maintained.

The new Building Commission will improve leadership in the building sector. It is not surprising that we have a building boom in Victoria at the moment because the fundamentals in Victoria are very good and we have streamlined planning and building processes.

The ACTING SPEAKER (Mr Kilgour) — Order! The honourable member's time has expired.

Mr McINTOSH (Kew) — When looking at bills such as the Building (Amendment) Bill I sometimes despair. It gives us great statements, and the government puts a further spin on it, but whether it actually does anything in practice or at the ground level I sometimes despair about. I give two particular examples of that.

The first relates to the proposed swimming pool amendments in clause 6. I was aware that the Building Control Commission in its annual report of November 2000 made reference to a working party the Minister for Planning had set up to look into the issue of swimming pools. That review has been advocated by a number of people on this side of the house. I mention particularly the honourable member for Knox, who has made an outstanding contribution in drawing the issue to the attention of the house. On three occasions the honourable member for Knox has asked the government to do something about the practical application of regulations relating to swimming pools. Back in 1994 the previous government introduced the amendments to the building regulations to require the fencing of swimming pools. Anomalies have been created through the maintenance of those fences, the opportunities for people to prop open the gates and such things. There is an advocacy role and an opportunity for government to be involved in talking about safety issues. In November last year I saw a reference in the annual report of the Building Control Commission to a working party that was set up to look at the regulations and how we control swimming pools.

Most importantly, it has taken this long for the matter to come before the house. The provision is not anything practical; it is just an enabling provision. It enables the government to make specific regulations with respect to swimming pools and to impose pretty stringent penalties for offences. We still do not have a copy of the specific regulations or what is actually proposed. It seems that while honourable members are talking a lot about an enabling provision, in the lead-up to summer we still do not have the specific details of what the provisions would be. I am sure the honourable member for Knox and other members on this side of the house would dearly like to see the specifics of the detail rather than the traditional spin that the government puts on such activities.

The other matter I touch on is what is proposed for the Building Control Commission. The government is rebadging an existing organisation by removing the word 'control' from the name, so that the Building Control Commission will become the Building Commission. In his second-reading speech the Minister for Planning indicated that this is one of the administrative amendments in the bill, which will improve the operation of the Building Act and benefit both consumers and building practitioners.

There is no doubt that the Building Commission will still have a major role to play in the protection of consumers. Back in 1995, when the Domestic Building Contracts Bill was introduced, my predecessor as the honourable member for Kew, who was then the Attorney-General, made specific reference to consumer protection in the implementation of the tribunal, which is now vested in the Victorian Civil and Administrative Tribunal (VCAT), for the resolution of building disputes. The tribunal process was designed to be less formal than those in the courts, and one that was more streamlined, with the emphasis on timely resolution of disputes, even those that arise before a contract is completed. There is no doubt that that was welcomed by both sides of the house. It was supported by the then Labor opposition.

One of the integral factors implemented in 1995 was the power of the Building Control Commission to investigate any deviations from the plans and specifications by any builder. A process was implemented whereby a consumer of building services could ask the Building Control Commission to appoint an investigator on the payment of a nominal sum — which currently is $300 — to carry out investigation works as to whether there has been any deviation from the plans and specifications set out in any domestic building contract.

That became a powerful tool in the hands of consumers. It was designed to have an investigator appointed at an early stage of a dispute, or in a dispute, to have a look at the plans and specifications to determine whether there was any deviation. Most importantly, sometimes by the appointment of that independent umpire, that resolution may be resolved expeditiously and in a fairly cost-effective way. If it were not, that independent umpire's report could be tendered in evidence if the dispute ultimately went to VCAT. There is no doubt that was important, although having looked at the speeches during the second-reading debate in both this and the other house I see there was not much emphasis on that by any of the parties. It certainly turned into a powerful tool.

While I can see that the Building Control Commission has sought to reinvent itself and there is reference to an overseeing role in the industry, and while the honourable member for Coburg talked about a paradigm shift, there is no doubt that there is still an emphasis on the protection of consumers. The annual report and the journal produced by the Building Control Commission in June this year refer to that reinventing of itself to provide a cooperative improvement in the building industry. Although there is no doubt that the Building Control Commission would like to see a situation where, if someone becomes a registered builder, that becomes a badge of excellence, there is still emphasis on the protection of consumers.

It was with some dismay that about a month ago I raised in this house the fact that back in June of this year the web site of the Building Control Commission showed that the service that provided cheap, expeditious and worthwhile investigations that can be carried out by either representatives of the Building Control Commission or an independent investigator at the cost of $300 was temporarily suspended. In September I spoke in this place about that matter, and between June and September that service was still temporarily suspended. Most importantly, I checked the web site at about 5 o'clock yesterday afternoon. Unfortunately I have not been able to check it this morning, but I know it is still temporarily suspended.

Honourable members are talking about a cosmetic change, a name change or, as the honourable member for Coburg said, a paradigm shift. However, one of the major stakeholders, consumers of building services, who apparently have a right to have access to a cheap, effective mechanism to determine their rights and to tender any result from access to that mechanism at VCAT — if a dispute has to go that far — have that service temporarily suspended. It is extraordinary that with the rebadging and the pious statements by government members about what a wonderful organisation they are producing with the Building Commission and that while the bill reflects a paradigm shift the government is still interested in the stakeholders, today apparently consumers cannot avail themselves of a cheap, simple and effective mechanism for potentially resolving a dispute either between the parties or at VCAT if it has to go there.

It is a matter of enormous concern that for four months consumers in this state have been effectively deprived of that service. It has not been for just four months. I am aware of people who sought to avail themselves of that service even before June who were told by representatives of the Building Control Commission that they could not avail themselves of the service and they should go to VCAT and issue proceedings. The despair of those people as a result of a contract that has gone wrong or some dispute with a builder seems to be flagrantly flying in the face of an act of Parliament that puts a specific power in the hands of the Building Control Commission that is not being exercised and still to this day remains suspended.

I have asked the minister if he can inform me what was intended, why the service was temporarily suspended and what was going to replace it. I have never had a formal response. It was raised in a statement and was not asked as a question, but I still do not know what the government proposes to do about an integral and important aspect of consumer protection in this state.

What causes me considerable despair is that I know that my principal asset is my own home. That is probably replicated all over Victoria. I am sure I speak on behalf of anybody who has had to make monthly mortgage payments when I say that their principal assets are their homes. If they do not get them built in the way want and if they are not built in accordance with the plans and specifications set out in the contract, then what you are dealing with is a major part of these people's lives. If we do not have the protection of the mechanism that was set up by the previous government involving the

Building Control Commission it is absolutely beyond belief that this government can stand up and say that it is a paradigm shift to change the name from Building Control Commission to Building Commission.

I ask the Minister — who I note is not in the house — what he is going to do about the Building Control Commission, or the Building Commission, in relation to its investigatory powers? What is he going to do to enable ordinary Victorians who want to, to avail themselves of a cheap, effective mechanism that could potentially resolve their disputes at an early stage or could be used in the Victorian Civil and Administrative Tribunal (VCAT) as a form of evidence? What is this government going to do? If this is a paradigm shift I would want to know what that paradigm shift is going to do for consumers. The minister talked about it in his second-reading speech, and the honourable member for Coburg talked about paradigm shifts, but I would like to know what that shift actually includes and what the government is going to do to assist consumers of building services in this state to get this cheap and effective mechanism.

With some disappointment, as well as despair, I note that the minister is not in the house to answer these questions; but I am sure his advisers are sitting in the house — I can see one over there at the moment — and I have no doubt that there are others who are listening to this speech. I want to know if the government proposes to change the name because of some paradigm shift on which there is a lack of clarity. What is the minister going to do for consumers in this state?

As I said, I have seen complaints being made not only by my constituents but also by people from as far away as Taylors Lakes and East St Kilda — from both sides of the Yarra. What is important is that people have sought to avail themselves of this service, which is apparently temporarily suspended. More importantly, a process seems to have been adopted even before the public enunciation of it.

When my predecessor as the honourable member for Kew read the second-reading speech in this house for the principal legislation it was clear the process was there to protect consumers, to provide a mechanism ancillary to the resolution of those disputes in VCAT and to have those positions resolved at an early stage — that is, a timely response to a dispute by the appointment of an independent umpire at a very low cost. As I said, at this stage the cost is $300.

The honourable member for Coburg still talks about how it does not matter what the cost is and that a service has to be provided, but where is the service? It seems to me that the Building Control Commission may be moving towards taking a global view of trying to promote excellence in the industry — which I cannot dispute, as it is a worthwhile and effective process — but what is going to be done for ordinary consumers who consume a service that to many represents their major asset and their major investment in their lives? If such a major investment goes wrong it can impact upon individuals and their families and upon the whole community.

I plead with this government to pick up the noble sentiments of my predecessor as the honourable member for Kew and implement a process whereby consumers can be protected and where they can avail themselves of an effective and efficient service that give these disputes an early resolution. I suggest that the minister come into this house for his summing-up and explain what he is going to do to implement this apparent paradigm shift.

Mr TREZISE (Geelong) — I stand in support of the Building (Amendment) Bill. Despite what the honourable member for Kew has claimed, this bill is once again proof that the Bracks Labor government is implementing its policy of reform. This government is about governing for all people in a fair, consistent and transparent way. This bill is another example of legislation putting these principles in place. It goes a long way to putting in place legislation that ensures the government's new residential planning code, Rescode, can be implemented in an effective manner. The bill provides an administrative foundation for the implementation of the much-welcomed and much-applauded Rescode.

As I said, the introduction and implementation of Rescode is another example of this government implementing policy that it committed to at its election in September 1999. The Bracks government is delivering, and in this case it is delivering a better building and planning scheme. The implementation of Rescode will be and is being applauded across the state, including in rural and regional areas such as my seat of Geelong. I can assure the house that it is being welcomed with open arms in suburbs in my electorate such as Geelong West, Newtown, Geelong East, Chilwell, Manifold Heights and Herne Hill — the list goes on.

Geelong West, where my electorate office is located, is dominated by period homes — Victorian and Federation homes — and its residents and those of similar suburbs welcome Rescode. It is in such areas as Geelong West that people are buying period homes and doing them up. A residential renaissance is occurring in

Geelong. As I said, Rescode is welcomed in my electorate by many people throughout its suburbs.

This legislation is not only about putting in administrative regulations to underpin Rescode but will also put in place a number of amendments to the Building Act 1993 to make its implementation more effective. For example, among other things, the bill seeks to change — and we have talked about this — the name of the Building Control Commission to the Building Commission to better reflect its role in the building sector. The bill is about providing for community representatives to be members of statutory bodies created under the auspices of the Building Act.

The bill also addresses the penalties for non-compliance with swimming pool safety regulations. Obviously those regulations are important for the community, and I will touch on that issue later.

The bill also addresses the delegation of the functions of building supervisors to other qualified professionals employed or engaged by the councils. Also, the bill will enable the Building Practitioners Board to inquire into the conduct of suspended building practitioners.

As I said earlier, the bill addresses a number of provisions in the Building Act. But so far as I am concerned the main focus of the legislation is on the amendments to be made to the building regulations that will underpin the government's most-welcome Rescode, which replaces the previous government's Viccode 1 and *Good Design Guide* for medium-density housing.

When I first took over my electorate office in October 1999 I was inundated with problems about building and planning issues. It quickly became evident that a lot of people were directly involved in or affected by building developments. The then regulations, such as Viccode 1, had failed those people in their suburbs — or even next door. Viccode 1 more than failed people; it put them into a form of suburban warfare with their neighbours. The code created an environment where people felt they had been treated unfairly or had been betrayed not only by their neighbours but by the legislation or the planning guides then in place. I saw a number of examples of neighbour being pitted against neighbour, especially in and around West Geelong, which has many period homes built on small blocks.

I recount for the house the story of one elderly gentleman who sought my assistance early last year. He described the building being erected immediately next door to his property as a monstrosity. He lived in Chilwell, a suburb in my electorate, and like many elderly people in Geelong he had lived in the one home all his married life. He had built it 50 years before after returning from World War II, and to this day he and his wife still live there. As I understand it, his wife is suffering from a terminal illness. As happens with so many elderly couples, he has been left to look after a sick partner and to experience all the emotions and strains a family is placed under in such circumstances.

In the midst of that situation the elderly couple — who did not understand what was about to happen immediately next door — one day found that their old neighbour's home had been demolished and work had commenced on a brick double-storey twin town house, bordered by a fence 11.5 metres high along the boundary of the elderly gentleman's block. Because properties in inner Geelong are generally small, the monstrosity — as he called it — next door totally overshadowed his entire home and block of land.

Previously he and his wife had nice views of their small garden from the side windows in their kitchen, bedroom and lounge, but the building next door blocked those views and left the couple with a view of a burnt orange brick wall about 11.5 metres high. The construction meant no direct sunlight entered his backyard, and in winter his garden was either wet or continuously damp. The gentleman explained to me that his two loves in life were his wife and his vegetable patch, but the vegies could no longer grow and his wife could no longer sit in her chair in the sun for a couple of hours each day, which was her only venture outside because of her terminal illness.

He said the construction of the two-storey building on the boundary of their block had destroyed their lives. He also said that he hoped his new neighbour enjoyed his life in his new home because his life and that of his wife had, in essence, been wiped out. That is only one story of quite a few I could recount, although that is the one that has stuck in my mind over the couple of years I have been a member of this place.

I am pleased that Rescode will address such building and planning issues. All new residential dwellings will be less than 9 metres high, thereby reducing the impact on neighbours and streetscapes. Regulations will be in place to ensure that the overshadowing of properties, such as in the instance I recounted, will no longer occur — although it is too late for the elderly gentleman I spoke about. I support the bill because it puts in place provisions that underpin the government's much-welcomed Rescode.

Another issue I shall touch on briefly as it relates to the bill is safety regulations for backyard swimming pools.

During this and other debates honourable members have mentioned the major risks to our children posed by backyard swimming pools, especially in suburban areas. I suggest that not one month would pass when we do not hear a tragic story of a child, usually a toddler, who has wandered outside their own backdoor and into somebody else's property and drowned in a backyard pool. As a father of two daughters, I shudder to think of the emotions I would feel and the stress I would be placed under if my child died in such tragic circumstances. Hence the need for strict regulations over fencing, gate latches and hinges, and so on.

We need to provide stiff and appropriate penalties under the regulations against people who flout the laws governing backyard swimming pools. The bill prescribes regulations that increase the penalties for non-compliance with those regulations. The fine for those who flout the laws will be increased from 10 penalty points, or $1000, to $5000. That increase would be supported by all Victorians.

The vast majority of pool owners in Victoria are responsible citizens and understand the need for proper fencing and gates for their backyard swimming pools. However, unfortunately some people are prepared to flout the law and take the risk with their responsibilities. Frankly, they need to have the full force of the law descend on them.

I and most people support the increases in fines to make them substantial. The previous penalties were inadequate, and by increasing them fivefold I hope the irresponsible people I referred to earlier will ensure that the gates and fencing around and leading onto their pools are properly installed. Then we may not have to pick up newspapers and read about backyard swimming pool tragedies throughout Victoria. A $5000 fine may be regarded as hefty, but the people who flout the laws need to realise that if a child happens to drown in their pool they will cop that $5000 fine — but the real penalty is having to live with the fact that a child has drowned in their pool. That mental burden would far outweigh a $5000 fine. The bill is good legislation, and I commend it to the house.

Mr KOTSIRAS (Bulleen) — It is a pleasure to speak on the Building (Amendment) Bill. I do so because there has been so much interest in this topic within the electorate of Bulleen. Building and planning matters are some of the biggest issues in my electorate, because many people come to live in the area for the open space, the amenities and the privacy that one can experience in one's own home. Therefore when a government attempts to change things or interfere with people's ways of life, it causes concern — and my constituents have raised a number of issues with me.

In 1993 when the Building Bill was introduced the then shadow minister for Planning and former honourable member for Richmond, Demitri Dollis — who is now enjoying his new role as General Secretary of Greeks Abroad and is probably sipping a frappe somewhere in Greece — said:

> This bill is the most significant change to the framework for building control in Victoria since the 1950s.

Indeed it was. It was a reform package that took the construction industry into the 21st century. Unfortunately this bill is not a reform package.

The bill does a number of things. Firstly, it changes the title of the Building Control Commission to the Building Commission, and even though the honourable member for Coburg called it a paradigm shift, there is nothing new or visionary about this name change. The commission will do the same job it did previously, with responsibility for looking after the regulations. According to its web page the commission is committed to providing leadership for the building industry to achieve betting outcomes, so nothing will change.

Prior to the last election both parties said that the *Good Design Guide* and Viccode 1 needed to be upgraded to meet the needs of the day. Both parties said that should they win they would make those changes. The Labor Party, when it came into office, produced the Rescode draft and went about organising a consultation process. Unfortunately it was nothing more than a farce, because meetings were held during the day when residents were not able to attend. This was meant to be more for councils, bureaucrats, and people who worked in the industry. So even though the residents were the ones who were to be impacted upon, they did not have a chance to attend the consultation process — and in any event, one was not held in the City of Manningham.

However, the government released the draft code, together with some very good objectives, and I will quote some of them:

> It promotes well-designed residential development that:
>
> > is responsive to neighbourhood character,
> >
> > takes advantage of existing services and facilities,
> >
> > gives people a wide choice of housing types and locations.
>
> It achieves consistency in the application requirements and approval processes for residential development in Victoria, while supporting the adoption of local provisions …

It provides simpler and more certain planning processes that residents, developers and decision-makers can easily understand and use.

They are good objectives and I support them. Unfortunately Rescode has failed in many of these areas.

Rescode also attempted to tighten some parts of the planning scheme to try to make it easier and simpler. Unfortunately all it has done is lead to complexity. Many residents in my area have raised issues with me regarding Rescode. For example, they have said that there are no clear rules when a developer applies to a council to depart from Rescode for the construction of single houses. They also ask what criteria the minister will use when deciding whether to agree to a council's neighbourhood character overlay. Also they want to know what procedures will apply for councils seeking to vary the Rescode schedule of standards.

There are many opportunities for people to bypass the requirements as set out in Rescode, which means there will be more appeals to Victorian Civil and Administrative Tribunal and more time wasted. For example, Rescode states that boundary wall heights should not exceed an average of 3 metres, but if someone has a corner property and wishes to apply for a wall height of 3.5 or 4 metres, then that person can go to VCAT, which might overturn the decision the council has made.

What happens if an applicant makes changes while the application is between the council and VCAT? What role does VCAT play in this situation? Councils have 15 days to make a decision on an application. There is no time to let the neighbours know and no time for residents to make submissions. So there are many changes that need to be made to Rescode, but unfortunately this government has missed the boat.

Clause 4 is an attempt to rectify some of the problems found in Rescode. In the past any documents incorporated by reference in regulations had to be tabled in this house and displayed at the council. This, as was said by the opposition, duplicated what people had to do, and it also allowed for mistakes and errors to be made. Therefore clause 4 is basically there to rectify that problem, as is clause 5.

I support clause 6 because it attempts to protect our children. The honourable member for Knox has raised this matter on three occasions, but it has taken the government so long to introduce it. In the past there has been no requirement for swimming pool gates to be closed. While it was a requirement to build a fence around a pool, the gate could be left open, there is no requirement for it to be closed. It is now an offence to leave the gate open.

Clause 7 is also very important, especially if you are the neighbour. This bill now ensures that contracts of insurance will be enforced, and that includes the period 12 months after the building work is completed. This is important because at times the damage appears 6, 7 or 12 months after the job has been done.

Clause 8 covers the membership of the four statutory bodies. Each one involves different functions and people, but unfortunately, according to this bill, all four will include a lawyer and a consumer representative. A lawyer and a person with some expertise in consumer affairs might be beneficial for some, but I am not convinced that it is proper for one of each to be on all four boards. Clause 13 covers the regulation-making powers, under which fees will be payable. I have a question for the minister, and I hope he can answer it: how much will the fees be? I hope the minister consults with councils when he decides on the amount.

The opposition warned the government about Rescode and its problems. Unfortunately, the government refused to listen. So rather than being proactive and fixing the problem, it is trying to bandage the problems instead. I hope next time the minister brings a building and planning bill into the house it has more substance.

Mr INGRAM (Gippsland East) — The bill makes a number of minor changes. One is a name change — from the Building Control Commission to the Building Commission. It also makes consequential changes to other relevant acts such as the Victorian Civil and Administrative Tribunal Act and a few electricity industry acts.

I listened to the presentation of the honourable member for Kew, who outlined the Building Control Commission's appeal process and how it can investigate problems caused by building practitioners and, where there are faults, protect the consumer using a building facility.

Proposed section 15A, inserted by clause 6, sets out regulation-making powers in relation to swimming pools and spas, and I agree with that amendment. Other amendments increase the penalties for offences where things go astray, and that is obviously a good thing.

I raise an extremely disturbing case that occurred in my electorate involving Wayne and Kerrie Hall, who live at Bairnsdale. The couple entered a contract for extensions to their dwelling. The work was substandard and a number of defects occurred during the performance of the contract. I will refer to an outline of

the case given to me by the Halls. In August 1997 the Halls entered into a contract with B. M. and J. A. Dunlop Builders. In September 1997 a permit was taken out with their signatures by Hopkins and Mohamed. Works commenced in late September 1997. In November 1997 structural faults started appearing in the building. They saw Hopkins and issued a defect list. Some eight defects were listed, but only one was serious.

In December 1997 the contract was revoked. The Halls applied to the Victorian Civil and Administrative Tribunal (VCAT) and engaged the Building Control Commission to investigate the faults. In January 1998 the Building Control Commission tribunal appointed an expert under section 44 of the Domestic Building Contracts and Tribunals Act to carry out an investigation into the alleged defects. In March 1998 the Building Practitioners Board investigated the conduct and professionalism of the practitioners, the builder, the inspector and the surveyor.

In June 1998 the Halls received a letter from the practitioners board stating that an investigation was to be carried out and that in August 1998 the board would hold an inquiry pursuant to section 178 of the Building Act in respect of the conduct of the building practitioners, Brian Dunlop, Geoffrey Alan Hopkins and John James Hopkins. The three practitioners pleaded guilty, were prosecuted and fined by the board, which allowed an appeal period. The Hopkins brothers appealed the severity of the fines. The allegations and findings were upheld.

In November 1998 an application was made to VCAT to join Hopkins and Hopkins and the insurance company as parties to the proceeding. The VCAT tribunal member, Dr Cremean, ordered mediation. In December 1998 it was ordered that mediation be brought forward. The matter was settled with the builder, but the insurance company continued the hearing. In February 1999 the builder defaulted on settlement works that were required to be reworked as directed by the tribunal expert.

It is an extremely disturbing case. In August 1999 the Halls settled with the builder, but the insurance company continued the hearing. A hearing occurred at VCAT before Mr Ian Griffiths. Counsel for the defence stayed in a room after the hearing was adjourned. No experts were relied on and the tribunal reports went uncontested, as did the statements from the Building Practitioners Board and the allegations before the board, which were entered as evidence.

In March 2000 Mr Griffiths handed down his decision dismissing the case. An explanation was requested from the tribunal as to why he failed to take into account the work the builders had agreed to perform under the first settlement that had never been completed. This was uncontested evidence. The feedback from VCAT was unsatisfactory. A letter was received from the registrar of the tribunal requesting details of the member's findings in relation to costs and about the builder not complying.

The Halls received a letter from VCAT saying there was no basis for a correction of the decision. The Halls' lawyers wrote back to VCAT asking for the reasons for the findings on material questions of fact. They received a letter from the tribunal advising that it had no further function to perform. In April 2000 the lawyers submitted to the tribunal that the reasons were incomplete and requested further details. The tribunal then wrote back in May repeating that it had no further function to perform. Letters were sent backwards and forwards from the tribunal to the Halls' lawyers.

Finally, the Halls asked me to do something. They were issued with costs. They applied to the president of the tribunal, who concluded that a gross error of law was made by Mr Griffiths and that VCAT did not know why he made the decision, but unfortunately the only avenue of appeal was to the Supreme Court, which is extremely unsatisfactory because of the horrific costs involved.

Mr Griffiths, the person who heard the appeal at VCAT, formally resigned as a member of the tribunal and the only avenue the Halls now have is an appeal to the Supreme Court. Subsequently the insurance company requested costs relating to the hearings. In this case the builders, the inspector and the surveyor all pleaded guilty at a hearing, but the insurance company took the case to VCAT and the president of VCAT found that an error of law was made. The Halls now face bankruptcy because the building was substandard and they have had to redo the work at their own expense. That is an unsatisfactory outcome. I want an assurance from the minister that regulations are put in place that will protect people like the Halls from going through the circumstances that I have outlined.

I wrote to the Attorney-General in an attempt to do something about this case, where it was acknowledged that an error of law was made. Unfortunately the Attorney-General responded that he could not intervene. I understand the issue of the separation of powers and the fact that he could not intervene with the judiciary. This is an unsatisfactory outcome. VCAT has

not fulfilled its function and has not protected the individuals involved.

There are a couple of things that need to come out of this. The new Building Commission should have the power to protect consumers and there should be powers to investigate defects or problems involving building practitioners. Where builders, building surveyors or inspectors plead guilty during the investigation process they should not then be able to appeal to VCAT. If they plead guilty surely that acknowledges their wrongdoing and they have an obligation to remedy the problems that have come about.

A lot of other things are pertinent in this debate. We have a number of problems following privatisation with building surveyors in country areas like my electorate in Gippsland, where there are large distances between towns. The increase in costs of and the limited access to building surveyors has put an increasing cost on people building houses in places like Mallacoota. The surveyors are obliged to inspect at all stages of the building — and rightly so, because we have to protect the consumer — but the large distances involved are not taken into consideration, and it has an impact on people living in country areas. There needs to be some way of dealing with that and some sort of protection put in place for them.

It is a pleasure to speak on the bill. I leave it to other honourable members of the house to make further contributions.

Mr LUPTON (Knox) — In speaking on this bill I want to raise a couple of items of concern I have. Back in 2000 a young child in my electorate drowned in very tragic circumstances after walking through a swimming pool gate that had been propped open. Apparently it had been propped open so that people could gain better access to the pool, and tragically this little child died.

I raised this matter in members statements on 5 October 2000. I received a response from the minister in November 2000 advising me that a working party had been set up. From that time on my office staff spoke with the Building Control Commission to find out what was happening because that committee was being set up through the commission. I was basically told, 'No luck! Nothing is happening. They are investigating the matter', and still nothing happened. I raised the matter again on 29 May of this year to find out what had happened. We had already been through one swimming season and nothing had happened apart from the fact that a working party had been set up.

In August I received a letter from the minister to say that they were reviewing the situation. I raised the matter again on 9 October, expressing my concern that it was a bit hopeless for a government not to introduce legislation to make it an offence to prop open a swimming pool gate, particularly as we were now coming into the second swimming season since this tragedy happened. I am pleased to some extent to see it in this legislation. I will quote from the bill, Mr Acting Speaker, because I believe the insertion into the principal act of proposed section 15A is important. It states:

> "15A. *Building regulations with respect to swimming pools and spas*
>
> (1) The Governor in Council may make regulations for or with respect to —
>
> (a) the construction, installation, maintenance and operation of swimming pools and spas and associated services; and
>
> (b) the construction, installation, maintenance, operation and use of —
>
> (i) equipment associated with swimming pools and spas, including safety equipment; and
>
> (ii) swimming pool barriers and spa barriers and associated services.
>
> (2) Despite section 262(f), regulations made under sub-section (1) may impose penalties not exceeding 50 penalty units for a contravention of those regulations.".

Comments have been made in the debate that this particular insertion has been brought about because of the death of the child, and I hope that is the case. The concern I have is that whilst the legislation says 'may make regulations for or with respect to', there is nothing stipulating that these regulations will be in relation to making the propping open of pool gates an offence. At the briefing I was told that that would happen, but I have a real concern that the regulations have apparently not been formulated and that we are guessing about what is going on. It has taken 12 months. We are facing the second swimming pool season, and if we have a long, hot summer as we did last year I do not want it on my conscience that because of the lack of enterprise or initiative by the government it is still not an offence to have a propped-open swimming pool gate.

It is important that the house realises that it is 12 months since I first raised this matter. I hope, and I have my fingers crossed, that the regulations which may be introduced according to the bill will make it an offence for a person to prop open a swimming pool

gate, whether or not the action results in a fatality, and that such action will be dealt with accordingly. I am aware of one child from my electorate already having lost their life, and I express concern that there is not something more definitive about this issue in the bill.

The bill provides for the Building Control Commission to change its name and be known as the Building Commission. The Building Control Commission was originally set up to assist consumers in settling disputes and, hopefully, resolving matters between themselves and builders. The Building Control Commission could investigate deviations from plans and contracts.

The honourable member for Kew gave an excellent explanation of what the Building Control Commission was originally set up for and explained that, regrettably, for some unknown reason a lot of the services that it offered to consumers — that is, Mr and Mrs John Citizen of the state of Victoria, those people who were having their homes built — had been suspended. I am advised that one of the services that was offered was at a cost of some $300. The Building Control Commission investigated matters where Mr and Mrs Citizen felt that they had been aggrieved, their contract had been violated, and maybe the builder or somebody else had swerved out of what the contract was all about.

In the times that I have been involved with the Building Control Commission — there have been about four occasions — I found that the commission was most helpful to me, as a member of Parliament, and then to the consumer. But in each case where I have been involved the consumers initially had no response — no support at all. It was only when they came to me and I was able to intervene that things started to move. I do not believe it appropriate that every person with a complaint has to go to their local member of Parliament.

On one occasion I went to a site in Rowville. The Building Control Commission people were there together with the owner of the house, the builder, the architects — everybody in the world — and although the matter was resolved it required me to intervene and call a meeting on site before the parties reached a satisfactory solution.

Another case involved an elderly widow who had had her house reblocked. When the job was found to be inappropriately and unprofessionally done — walls had cracked, et cetera — again I had to go to the Building Control Commission because the lady could not get any assistance.

While the results in these cases were satisfactory I believe it was inappropriate that I had to be involved to get the Building Control Commission to get off its backside. The Building Control Commission seemed to exist to protect the builders, and that is not what its function was all about.

Now, as the honourable member for Kew so eloquently put it, the service which the Building Control Commission offers to Mr and Mrs Citizen, the people who are outlaying probably the greatest expenditure that they will ever outlay together in their lives, which is probably in excess of $150 000 and could be up to any figure, has been suspended and they have not had the support from this organisation. Yet we are worrying about changing a name.

Apparently this bill will be debated all day. Everybody will support it and discussion will take place about a little matter like changing the name of the Building Control Commission. I would have thought that it was of far more benefit to the people of Victoria to ensure that the Building Control Commission, or the Building Commission, or whatever you want to call it, had the power, ability and will to investigate and support Victorians who want to build their homes.

People should not have to go through the trauma of trying to negotiate and argue with professional builders who then screw them to the wall because there is no backup for them. Originally the former Attorney-General anticipated that the Building Control Commission would assist Mr and Mrs Citizen when contracts had been deviated from and would try to help them through their hours of torment. I do not believe that has happened.

As the honourable member for Kew said, the service which was made available was apparently withdrawn — suspended — back in August. I do not believe that was appropriate. Why on earth would you suspend a vital service such as this from an organisation intended to protect the people? It is vital because it provides the citizens, the people who are going through the process of taking on the big builders, with evidence which they can take to the Victorian Civil and Administrative Tribunal. Yet for some reason or another the service has been suspended.

I join with the honourable member for Kew and ask the minister to explain during his summing-up why the service was suspended. For heaven's sake, he should tell the people of Victoria when the service is going to be reintroduced. Whether it is under the Building Control Commission, the Building Commission, the Housing Guarantee Fund — I do not care what you call

it — I want to see the facility reinstated and reactivated whereby the citizens of Victoria can obtain the assistance of this organisation when they have problems with their building contracts. Surely that is not too much to ask.

In the cases where I had to get involved with the Building Control Commission, as I said, the commission proved to be most helpful. But again, why should a member of Parliament have to be involved? I do not mind becoming involved, but Mr and Mrs Citizen of Victoria should not have to go to their local member of Parliament. There is something wrong with the system if it requires a local member to get involved.

During his address the honourable member for Kew referred to people from all over Melbourne who have been affected by a firm of builders flouting the regulations. As a result these poor people, who are building their homes and spending the greatest amount of money they will probably ever spend in their lives, have been screwed — and that is the only way to describe it. What the honourable member for Kew was talking about is an absolute disgrace. What has happened is pitiful. It is a wonder the directors of that particular company can sleep at night.

Yet the Building Control Commission has run away, hidden, and thrown up every excuse it can think off not to become involved in taking this firm of builders to task. The issue has already been mentioned on a number of television programs. I understand that one television channel said it did not want to cover the story and then created a spoiler when it found another channel wanted to do it. That damaged the overall impact of programs such as *A Current Affair* — and I only use that as a example. It was a spoiler, and it turns out the building company spends heaps of money on advertising with one channel.

The Building Control Commission, soon to be called the Building Commission, has to be investigated. It needs to re-establish itself so that it protects Victorian citizens who wish to build homes. Rather than changing the name of the commission, the government would have been better off utilising the time it has devoted to this legislation to give the Building Commission a bit of strength and guts so it can protect Victorians.

Mr STENSHOLT (Burwood) — I support the Building (Amendment) Bill. I listened to the views of the honourable member for Knox regarding the Building Commission. Although one of the objects of the bill is to change the Building Control Commission's name, it is also aimed at streamlining a range of processes involved in applying, adopting or incorporating planning schemes and at changing the classes of people who can be appointed as members of various bodies. The bill provides for a number of other measures to improve the operation of the act — and swimming pools are included in those.

I support the bill because it is part of the necessary reforms the Bracks Labor government has introduced in building and planning. Part of the act relates to the central part of the reform — namely, the introduction of Rescode. Previous speakers have touched on that.

Many planning and building issues resonate in my electorate. As a local representative of the community, it is my obligation to promote and pursue the community's interests. I have been active in this area both before and since my election to Parliament. Local planning and building are crucial issues among my constituents. In the past we had the so-called *Good Design Guide* for multiple units and Viccode 1 for single dwellings.

The honourable member for Geelong eloquently described the situation some elderly constituents of his were in. There are similar stories in my electorate. I recall a couple in Burwood who built their place well over 50 years ago. The husband had dug the trenches for the water and the sewer 500 metres down to the road because there were no other buildings in the area. Suddenly, under Viccode 1, a huge double-storey house was built next door with a yellow-painted Colorbond roof, off which the sun reflected into their kitchen, which was very close to the building next door. By 9 o'clock on a summer's morning it was often 42 degrees. The building overlooked their living room and their kitchen. This sort of inappropriate development was frowned on, and it was frustrating for the people in my electorate, so they were pleased and vitally interested in the introduction of changes to local planning and building regulations.

I sent out a survey to my constituents prior to the community cabinet meeting for Boroondara and Burwood residents, which was held at the Camberwell centre. I should mention that the shadow Minister for Planning, the honourable member for Hawthorn, actually attended. He crossed the road to see what was happening at the community cabinet meeting. I commend community cabinet meetings to opposition members, because there is some excellent interaction with people. In their many replies to the survey people rated planning and building issues among the top three that were most important to them. For the information of honourable members, the other two were health and education — no surprises there. However, the planning

and building issue was a key concern. They were very appreciative of the government's work to make changes to the building and planning laws, including the introduction of Rescode.

I have been delighted to play a local leadership role in this. I attended all the four information sessions on the proposed Rescode at Camberwell, Box Hill and Waverley, and then subsequently at Camberwell. I did not see too many of my Liberal colleagues from the area attending them, although the honourable member for Box Hill attended one.

It is a critical issue, and it is important to be attuned to what is happening locally. In the process of developing Rescode I had constant interactions and discussions with the local councils, particularly Boroondara. I was able to act as a conduit for their views, and obviously the views of residents, conveying them to the minister, who has proved to be receptive and willing to listen, consult widely and test changes to and the reform of building and planning regulations. I helped to advocate and then attended a meeting between the minister and the local mayors and chief executive officers, including those of Boroondara, to discuss the elements that might finally be part of Rescode. This consultation on reforms to the planning and building regulation is important and has been well received. The bill seeks to further those reforms.

I will pick up a few of the reforms. One that has been mentioned is changing the name of the Building Control Commission to the Building Commission. I do not see this as a trivial name change. Rather I see it as a reform and very much as an opportunity, because the commission has been consulting widely within the building industry.

As I recall, there was a summit in March where the commission got a mandate from the industry to pursue a leadership role. The commission got strong support for it having a broad focus in leadership in the building industry. I support the changes, which will enable legislated scrutiny of buildings and transparent accountability. That involves not only having legislation or powers in a narrow sense but also having an influence in regulation and in negotiations across a wider field of the industry. One of the commission's objects is to do research; not just a bit of piecemeal research and development but research and development that leads to major building innovation, which is very important. This change of name is not insignificant.

A number of speakers have talked about consumer rights. We have heard descriptions of several cases that have come to the attention of honourable members in their work for their constituents. I have also heard of similar cases. I see the role of the Building Commission as not just the narrow role of ensuring regulatory compliance in consumer disputes but also as providing leadership across the board to reduce the level of disputes and substituting control with delivering better overall outcomes. I support the reforms of the Bracks Labor government to deliver better results for consumers. I expect that the commission will be taking up the challenge of delivering better results across the industry, including delivering results for consumers. It is important for honourable members to support their constituents as consumers, and Rescode is one of the ways the government has protected consumers.

My constituents have been very frustrated at their inability to cope with the almost criminal activities of some of the shonky builders dealing with them. Seeking redress through various measures can be quite time consuming and difficult for people who are not used to them. Like the honourable member for Knox, I have had experience with some builders through my constituents. I am tempted to name some of them, but I know I should let the processes resolve themselves. However, I continue to advocate on behalf of consumers. I was honoured to be asked by the Minister for Consumer Affairs to chair a panel to review the Fair Trading Act. I will undertake that role in pursuing the rights of consumers. It is not just a change of name but part of the ongoing reforms for improving the building regulatory environment.

Other clauses deal with streamlining processes and improving operations. Clause 11 is a case in point. This clause seeks to clarify an uncertainty that may exist in relation to delegation by municipal building surveyors. Municipal building surveyors perform a wide range of tasks, including the inspection of swimming pool barriers, which another clause also deals with; ensuring buildings used for residential purposes are provided with smoke alarms, which we all know has been a very good initiative that I am sure has saved many lives; the inspection of buildings to ensure that occupancy permits are displayed; ensuring that the determination of the level of performance of essential services is displayed in an approved location; making emergency orders; issuing building notices; and inspecting places of public entertainment and other roles of inspection.

The designated municipal building surveyor cannot do all that alone, which is why there is a need for a team of staff. There has been some doubt as to whether those tasks can be delegated under common law, so this bill removes any doubt about it so the building surveyors

can go about their work in an efficient and effective manner.

Another clause I will refer to briefly is clause 8, which deals with the membership of statutory bodies. The clause is positive in that it extends the degree of expertise and representation on statutory bodies. For example, I understand the Building Advisory Council is made up of commissioners, people from the plumbing industry, architects, master builders, representatives from the Housing Industry Association (HIA), the Property Council of Australia and the Australian Institute of Building Surveyors, and someone experienced in the building industry — a vague one. It should also have legal practitioners to represent consumers and their interests, and with this amendment to the act the council will include at least a person who in the minister's opinion is able to represent the interests of users of the services of building practitioners. So I see this as once again reinforcing the rights of consumers of such services and as a positive aspect of the bill because it furthers the building and planning interests of constituents.

I note, as other honourable members have done in the references to clause 6, that a number of my constituents have swimming pools and spas, and naturally I commend the strengthening of regulations proposed in the bill.

Mr Perton interjected.

Mr STENSHOLT — Yes, I can swim. We do not wish to see any more children or other people drown because of ineffective controls or the lack of appropriate barriers or maintenance of them in our backyard swimming pools. It is a serious matter and obviously affects families. The loss of children, as other speakers have mentioned, is too terrible to contemplate, but unfortunately does happen, and I see the strengthening of that provision as very important for our constituents, particularly with the approach of summer, which I am told is going to be quite a hot one. Swimming pools will get a real work-out this year.

The bill enhances the reform of building and planning in Victoria, which is particularly encapsulated in the new Rescode provisions. It is welcomed by organisations in my electorate and by the council representatives and officers. I commend the bill to the house.

Mrs PEULICH (Bentleigh) — I will make some brief comments on the Building (Amendment) Bill, which the government has introduced probably in large part because some of the amendments are necessary. Others are a reflection of government policy. Those that are necessary are underpinned by good commonsense, and the others are quite debatable.

The government has responded to the request that the name of the commission be changed and that the word 'control' be dropped from it. I must confess that caught me a little bit by surprise. I would have thought this government would want to emphasise a high degree of control of building construction activity, dispute handling and accountability. That was a significant pillar of its policy. This is something you would have expected from a Kennett government.

It always begs the question of how much money it is going to cost to implement a change that is probably neither necessary nor critical to the industry. Under its existing name the commission has already been conducting some fairly vigorous activities that go beyond mere control of the industry and enter areas of development. The commission has been funding some necessary building research innovation projects including, for example, in 1999–2000 a research project on performance of a solid-core timber door in a fire test. That provided very useful research information. Other research projects have been conducted into fire protection in high-rise buildings, the cost effectiveness of alternative building systems and performance-based building regulations and a domestic building satisfaction survey. I am always a bit wary when a Labor government conducts these things because invariably it seems to be friends of the government who benefit from these special projects. The government is very keen on surveys, and the honourable member for Frankston East often seems to have a close involvement with them.

The second part of the legislation makes changes to streamline the processes involved in applying, adopting or incorporating planning schemes into the building regulations. The amendments deal with the application, adoption and incorporation of planning schemes into the building regulations, which I understand underpin the government's Rescode initiatives. Without these changes Rescode would have been a huge bureaucratic nightmare generating a lot of duplication, printing and tabling of documents. I am not sure the Minister for Planning fully understood how bureaucratic implementation of Rescode would be — or how costly!

Other provisions relate to the ability of councils to set various fees associated with the range of services that will be necessary for the introduction of Rescode. There is no doubt that those applying for permits, be they planning permits or building permits, will be paying through their teeth. Councils are petrified at the

prospect of being inundated with the work required to implement the code.

Rescode will, as I said before, be implemented through the planning schemes and building regulations to manage the government's residential development policies. Without those provisions it would have been a nightmare. Ordinarily when documents are applied, adopted or incorporated by reference into regulations — that is, through section 32 of the Interpretation of Legislation Act — relevant documents are required to be tabled in Parliament and copies held for public inspection by the relevant department. The purpose of these requirements is to ensure that incorporated documents are publicly and readily available.

In the case of planning schemes the requirement of section 32 of the Interpretation of Legislation Act will duplicate the provisions of the Planning and Environment Act 1987 which require planning schemes to be made available at the council offices and the Department of Infrastructure. Because planning schemes are frequently amended — and will be amended more frequently — the requirement that every amendment be tabled would obviously result in a huge bureaucratic nightmare, as I mentioned before, and a lot of administrative costs.

The bill provides a limited exemption from preparing a regulatory impact statement on regulations which apply, adopt or incorporate planning scheme provisions into the building regulations. As I said, without those provisions Rescode would be a headache not only for councils, builders and people who hope to build homes but also obviously for the government and the instrumentalities responsible for the implementation of the government's policies.

The bill extends the membership of all the statutory bodies created under the Building Act to include community representatives and representatives of the legal profession. This is obviously influenced by government policy. The government has been quite clear about this and it has done the same thing in absolutely every other sector and every other sphere of government involvement, including for example community health centres. On the Bentleigh Bayside Community Health Centre, the Minister for Planning, in his capacity as the Minister for Health, went to extraordinary lengths to letterbox the entire electorate to invite additional nominees for the board despite there being no additional interest and the existing board members being very happy with the mix of skills they had to administer and run the community health centre. Now he has made some political appointments, including the ALP member Craig Tucker, who of course has political aspirations. It is a bit confusing because at the last state elections Mr Tucker ran as a candidate for the Democrats, so he will probably be another Cheryl Kernot!

What honourable members can expect the government to do, of course, is appoint its mates. The government politicises boards and committees. As a result the performance of those instrumentalities and organisations tends to diminish and they descend into reflecting basically party political interests. I suggest that honourable members stay tuned. It will be interesting to compare, for example, the research projects that have been funded preceding the expansion of the boards with those that will perhaps be funded in the future.

Further improvements are made to the operation of the act, including as I mentioned additions to the regulation-making powers to enable regulations to be made setting the fees to be charged by councils that are asked to give their consent and report on matters under Rescode. The cost of building homes will no doubt increase and consumers will pay dramatically for the implementation of Rescode. Even to date what I see emerging in particular among the homes that have been built under the Rescode guidelines is the duplex concept versus the in-tandem concept common under the *Good Design Guide*. Talk about changing the streetscape — they may be similar buildings but in my view there is actually a diminution of the aesthetics of streetscape and of buildings. In a year or two down the track it will be interesting to see the transformation due to the effect of Rescode on our streetscape.

Mr Robinson — So you don't support the changes?

Mrs PEULICH — I think the jury is very much out. There are some sensible changes but there are also some very detrimental changes, the evidence of which is already emerging, certainly in the streets of the Bentleigh district.

A very important amendment in the bill is what people have referred to as the Hurtle Lupton amendment, which has been introduced because of the very diligent representation by the honourable member for Knox of his constituency. He referred to a very tragic incident which occurred in his electorate but which also occurs in many other electorates — that is, the death of a child in a domestic swimming pool. While the current regulations require the fencing of those pools, the ongoing maintenance and proper use of the fences has not been enforceable. For example, in some instances it is not unusual to see the gate of a fence around a

swimming pool propped open, thereby defying the intent of the regulations and not affording security to minors who need protection. This is an example of a much-needed amendment and I commend the government on introducing it.

Mr Perton interjected.

Mrs PEULICH — Honourable members know that it is referred to as the Hurtle Lupton amendment because it was introduced in response to matters raised by the honourable member for Knox. As I said, it is good to know that from time to time the government recognises good ideas and is prepared to implement them.

I will not speak for much longer because I know other honourable members wish to speak on the bill. I note also that the bill contains a number of administrative amendments which provide that a builder will not be able to carry out building work under a major domestic building contract unless the builder is registered as a domestic builder in the appropriate class or category. It also enables the Building Practitioners Board to conduct inquiries into the conduct of registered building practitioners whose registrations have been suspended. Those provisions are necessary and are why I consider the retention of the world 'control' in the name of the commission is important. It is important to reassure the community that the commission will afford consumers — that is, home builders and others — the sort of protection that they expect from government instrumentalities.

The bill also provides that municipal building surveyors will be able to delegate their functions and powers under the act to a qualified person employed or engaged by the municipal council. Obviously that will be necessary also to implement Rescode, and there will be much greater demands on building surveyors, the cost of which will be borne by home builders.

The last provision enables a building notice or order to be served on a lessee or a licensee of Crown land and provides for enforcement of the carrying out of that work, where previously the minister received the notice and did not have the capacity to act.

With those few words I look forward to the speedy passage of the bill. I will be monitoring some of the initiatives of the government in a policy area which really does cause a lot of angst in the community. I presume it will continue to do so, and perhaps will cause more in the future.

Mr ROBINSON (Mitcham) — I wish to make a few brief comments in support of the Building (Amendment) Bill, which contains a series of very welcome amendments which will increase confidence in the building industry. I might run quickly through some observations on the bill before returning to reflect on the comments by the honourable member for Knox in his very good contribution.

The bill does a number of things. It certainly broadens the choices available for appointment to the constituent body of the soon-to-be-renamed Building Control Commission, which is a progressive move. I am conscious that many people who have a view on the building industry and the practitioners in that industry very strongly believe that it is an industry of builders governed by builders solely for the benefit of builders. Given, as has been said, that the single greatest investment that most Victorians will make is in the building of their houses there is a vital and ongoing role for consumer representatives and others in the constituent bodies. That is finally formally being recognised in the bill, which in clause 8 provides for the appointment of legal practitioners and a second person who in the minister's opinion can represent the users of the services of building practitioners. That is to be greatly welcomed.

Equally the bill amends some of the insurance arrangements that are incumbent upon practitioners in the industry, and that is to be welcomed. In the course of this year we have seen the weakness in the ideology which has come to dominate some quarters in this country over recent years — that is, that the private sector is always capable of delivering services that are superior to what the state can offer. In building insurance we saw that theory come down in spectacular fashion with the collapse of HIH Insurance.

The previous government instigated changes that required domestic building warranty insurance to be transacted through the private sector, whereas it had formerly been done under a state-owned and state-controlled entity. Their blind faith in the private sector, largely represented by HIH because it was the biggest player, proved to be sadly misplaced. When it comes to an issue of such vital concern as protecting the interests of consumers and home owners who are having their homes built, it behoves all governments, regardless of their political persuasion, to put to one side blind faith and ideological obsession and ensure that at all costs the government is there supporting and ensuring that frameworks are in place that can support warranty systems that will work well into the future.

Proposed section 179A, which is inserted by clause 10 of the bill, introduces some welcome change in that it will permit inquiries into the conduct of building

practitioners who are no longer registered. Again this goes to the issue of standards. On evening television, on such programs as *A Current Affair*, we constantly see stories about shonky builders who are able to re-enter the industry. It seems that governments around the country have been played on a break by one or two of these operators who crop up again and again. They might be known as recalcitrants, phoenix companies or fly-by-night operators, but they are totally unscrupulous in their desire to rip off innocent consumers. Proposed section 179A will allow inquiries into the conduct of such people even though they might no longer be registered. That is a positive move. My recollection is that we had some health legislation before us not so long ago that also permitted inquiries to be held into practitioners even though their registration might have lapsed. That is a standard which is required and which people in this state will support.

Before I conclude I will spend a few minutes responding to some of the issues raised by the honourable member for Knox. He is quite justified and has done a very good job in raising them. All honourable members share his concern about negligent behaviour that can lead to the drowning of young children. It is frustrating that circumstances are still encountered where, despite requirements for pool fencing and despite campaigns to try and make Victorians more aware of the dangers that backyard swimming pools pose, these sorts of tragedies occur.

The honourable member for Knox made one comment that I do not entirely agree with. He seemed to be saying — and I am more than happy to be corrected if I am wrong — that we need to enforce penalties in these circumstances. I would agree with that, but with one exception. When a family has lost a child through a tragic drowning in a backyard swimming pool through the negligence of someone in or close to that family it does not matter what penalty is imposed by the statute because that family suffers forever. Whether the penalty units are modest or severe does not matter; it pales by comparison with what that family has lost. We need to be mindful that the greatest insurance that we can have in these circumstances is the love of a family for a child. If that is at the forefront of the minds of people who have pools hopefully this will be a problem that emerges and occurs less and less in the future.

The honourable member for Knox and others might have questioned the intentions of the government and its speed and commitment in trying to address the problem with swimming pools. I refer to proposed section 15A(2) inserted by clause 6, which imposes up to 50 penalty units. In itself this should be evidence of the government's desire, because it is unusual for legislation which creates or allows the creation of regulations to allow those regulations to contain such onerous penalty provisions. The Scrutiny of Acts and Regulations Committee (SARC) did note this, and there was a discussion at the time it considered the bill.

Where regulations are made, the usual rule is that the maximum prescribed by those regulations will not exceed 10 penalty units. In this case the minister has deliberately chosen to insert into the act a capacity to make regulations regarding swimming pools and spas that have a far greater penalty — some five times greater. SARC believes the Parliament has to consider this on its merits, and I am prepared to say that the need to ensure a tougher approach and to remind Victorians of their obligations to young children, in particular in relation to swimming pools, is such that the higher penalties are appropriate.

Bearing in mind the time and the need for other people to speak I will conclude. This is very good legislation which not only aims to deliver higher standards in the building community or among practitioners to bring greater accountability for their actions and their performance but which at the same time is seeking to ensure greater public and community focus on the risks that are presented to young children by backyard swimming pools. As such it has my support, and, I trust, the support of this Parliament.

Debate interrupted pursuant to sessional orders.

Sitting suspended 12.58 p.m. until 2.03 p.m.

QUESTIONS WITHOUT NOTICE

Public sector: logos

Dr NAPTHINE (Leader of the Opposition) — I refer the Premier to the fact that the government has instructed all departments to change their logos to incorporate the Bracks Labor government insignia. Will the Premier advise the house of the estimated cost of replacing every departmental logo, such as that of the Department of Human Services, 'People first', across the whole of the government of Victoria?

Mr BRACKS (Premier) — Victoria truly is the place to be! I can inform the Leader of the Opposition and the house that the move to 'Victoria — The place to be' will only be made on the expiration of existing stocks of stationery and equipment, and on new offices opening up. The move to simplify logos in Victoria and to have 'Victoria — The place to be' as the predominant one will be done over time and will be at zero cost to the state. The answer to the Leader of the

Opposition's question is that Victoria is the place to be, and there will be no cost at all.

Dr Napthine — On a point of order, Mr Speaker, the Premier is misleading the house. The instruction clearly says that material is to be pulped and recycled.

The SPEAKER — Order! Question time is not an opportunity for the Leader of the Opposition to raise points of order to make points in debate.

Mr BRACKS — We have had a consistent position from the opposition this week — it has had shonky documents all week, such as its Australian Bureau of Statistics documents. The answer to the Leader of the Opposition's question is that this will be done on the expiration of existing stocks. There will be no cost to government.

Infrastructure Planning Council: report

Mr CARLI (Coburg) — Will the Premier inform the house of how the interim report by the government's Infrastructure Planning Council builds on the massive $3 billion infrastructure program already announced by the Bracks government?

Mr BRACKS (Premier) — I thank the honourable member for Coburg and parliamentary secretary for infrastructure for his question. As he understands and knows, and as he mentioned in his question, in the last two years the government has committed to some $3 billion of new spending on infrastructure in the state. I want to congratulate the many contributors to that, including the honourable member for Coburg who is doing a great job as parliamentary secretary in that area.

As well as the $3 billion over the last two years, in the next few years — —

Honourable members interjecting.

Mr BRACKS — He is easily amused; I guess he is looking for a highlight in his life. The Leader of the Opposition should be out campaigning!

The SPEAKER — Order! The Premier will return to answering the question.

Mr BRACKS — In addition to the $3 billion over the last two years, over the next few years there will be a 45 per cent increase in infrastructure spending in Victoria. Importantly, almost $1 billion of that is being spent outside Melbourne in country and regional Victoria, which is an outstanding result over the last 12 months.

Today I released a document in conjunction with the release of the draft report from the Infrastructure Planning Council entitled *Growing Victoria — Delivering Today … Building for Tomorrow*. Under the categories 'Transport', 'Innovation', 'Education', 'Health', 'Community safety', 'Environment', 'Regional development' and 'Lifestyle' it lists those projects currently being funded and the projects that will be funded.

I will go to one as an example — 'Community safety', which is in the portfolios of the Minister for Police and Emergency Services and the Attorney-General. Under 'Delivering today' it goes to the County Court project, worth $160 million — and the Attorney-General will sponsor that. It also goes to the Wodonga court complex, worth $11.9 million; rural police station upgrades, $10 million; and new relocatable prison cell blocks, $28 million. And if you go from 'Delivering today' to 'Building for tomorrow' you find $334 million for 1000 new beds in our prison system. Congratulations to the corrections minister on the $25 million — —

Mr Maclellan — On a point of order, Mr Speaker, strictly in accordance with the guidelines you gave the house regarding raising points of order about the nature of answers, could it possibly be that reading from a publicly available booklet is answering a question?

The SPEAKER — Order! I do not uphold the point of order raised by the honourable member for Pakenham. The Chair was listening to the Premier's answer, and he made reference to providing the house with an example. However, I do remind the Premier that it is against the rules of the house to quote extensively from a publication, and I will not allow him to do that.

Mr BRACKS — Thank you, Mr Speaker, and I agree and support your ruling. I am referring to the headings, and they show 'Latrobe Valley justice precinct, $25 million'; 'Mildura and Warrnambool courthouses, $17.6 million'; and 'Statewide police station construction and upgrades, $80 million'. So in *Growing Victoria — Delivering Today … Building for Tomorrow* we have an outstanding record of $3 billion of expenditure over the last two years.

The other report released today is the report of the Infrastructure Planning Council, which is the forward look to the year 2020, saying effectively that infrastructure in this state should not be planned at the whim of the Premier or the government of the day but as a planned approach looking at the needs of the community and the economy.

We commissioned the work to be undertaken by the Infrastructure Planning Council to consider four major areas: water, transport, communications and energy, and that is what has been produced in this forward look to the year 2020.

I congratulate Mike Fitzpatrick, the chair of the Infrastructure Planning Council. He has done a fantastic job and devoted a lot of his own time to this work, along with the other members of the council. This is an outstanding document which will go out for public comment and discussion until a final report is produced in the middle of next year.

I welcome the report. It builds on the $3 billion of infrastructure spending in the state, and points the way for new plans on infrastructure spending in the next 20 years.

Kyoto protocol: impact

Mr RYAN (Leader of the National Party) — I refer the Premier to the federal Labor Party's pledge to commit Australia to the Kyoto protocol on greenhouse gas emissions should it win government, and I ask: can the Premier inform the house of the implications of that decision for Victorian industry, particularly that based on agriculture and energy production?

Mr BRACKS (Premier) — I thank the Leader of the National Party for his question. Every member of house would realise that it was inevitable that something like the Kyoto protocol would be signed by governments around the world. That is the case in Australia, and it will be complied with by the state of Victoria.

Some changes will be required in practice because of the signing of the Kyoto protocol, but there will also be significant opportunities in new technologies for renewable industries in this state. The new Codrington wind farm, which I had the pleasure of opening recently, is an example of the investment possibilities for the state of Victoria in constructing wind turbines and having domestic production available for them. For the next stage of that project in Portland, communities such as Ararat are bidding heavily and hard to have that manufacturing done in their regions, so there is enormous opportunity in this field.

So I can inform the Leader of the National Party that, yes, there will be a change in practice, but that change is inevitable and it is important. We need a sustainable economy and community. The Kyoto protocol will deliver just that and will open up new opportunities. It is important, therefore, that we are at the forefront of building those new opportunities and manufacturing, constructing and developing them here in Victoria.

Economy: performance

Ms BARKER (Oakleigh) — Will the Treasurer inform the house of the latest information concerning the state of the Victorian economy?

Mr BRUMBY (Treasurer) — I thank the honourable member for her question. Today's release of Australian Bureau of Statistics (ABS) regional labour force figures shows again that Victoria surely is the place to be in terms of employment and economic growth in our country. I know all members of this house will join with me in being delighted with the latest figures, which show very strong employment growth in both metropolitan Melbourne and in country Victoria.

I am particularly pleased that the metropolitan rate was 6.3 per cent; but I am even more pleased that the unemployment rate in country Victoria has declined to 6.5 per cent.

To put this in context for the beleaguered Leader of the Opposition, this is, of course, the best rate of employment growth in a country region anywhere in Australia. In fact, since October 1999, since the election of the Bracks government, 38 800 new jobs have been generated in country Victoria, which is a 6.9 per cent growth in the labour force in country Victoria — the highest consecutive rate of labour force growth ever recorded in country Victoria! Therefore Victoria is the place to be. As much as the Leader of the Opposition hates to see job growth in country Victoria, we have seen 38 800 jobs generated.

If one examines some of the other information released on the Victorian economy in the last couple of weeks one sees that in the ABS labour force figures for Australia, Victoria was again leading Australia with an unemployment rate of 6.1 per cent.

In addition the Access Economics report predicted that the Victorian economy will have the highest rate of GSP growth in 2001–02 of any Australian state at 3.5 per cent.

The ANZ job advertisements showed an increase in Victoria for five consecutive months; the figures on building approvals show that Victoria has had the highest level of building approvals in Australia for seven consecutive months; and the engineering construction statistics, which earlier this week in Parliament the Leader of the Opposition tried to tamper

with and wilfully misrepresent, show that the value of Victorian engineering construction work undertaken rose by 1.9 per cent during the year ended June quarter 2001, compared with a national decline of 0.2 per cent. We are second only to New South Wales, and for the June quarter 2001, $250 million of engineering construction was commenced in Victoria, representing 30 per cent of national commencements.

Finally, the Premier referred earlier to the excellent publication which was released today — *Growing Victoria — Delivering Today … Building for Tomorrow*. It is a fantastic document. It states that general government sector net asset investment for Victoria in 1997–98, under the former government, was $846 million. In 1998–99 it was $1.1 billion; in 1999–2000, $1.1 billion; in 2000–01, under the Bracks government it was $1.34 billion; in 2001–02 the figure was $1.75 billion; and building over the next three years is expected to increase to $1.786 billion, $1.94 billion and $1.95 billion.

The strategy which the government put in place in May was the right strategy. No-one could foresee the future, but the strategy to invest heavily in capital works in this state to build a big pipeline of activity has been precisely the right economic strategy for our state, and when the world and the Australian economy face uncertain times, this investment is delivering job opportunities.

The proof of the pudding is in the eating. The ABS statistics out today show that there has been no other period of time in our state where we have had such a strong growth in jobs in regional Victoria — 38 800 jobs since the election of the Bracks government, which is unparalleled jobs growth. It means the policies are working and delivering, the jobs are being generated, and Victoria surely is the place to be.

Geelong hospital

Mr DOYLE (Malvern) — Will the Minister for Health confirm that over the past four months one in every three elective surgery operations has been cancelled at the Geelong hospital?

Mr THWAITES (Minister for Health) — I am pleased to answer the question, because the Geelong hospital has had a tremendous record of achievement in the last year in turning its situation around. Only about nine months ago the honourable member for South Barwon was out in the newspapers day after day claiming that Geelong hospital was heading for a major financial deficit. The hospital has turned the situation around. It has gone from a position where under its previous financial constraints it was heading for a budget deficit to a position where it is now in surplus.

The hospital has had serious problems, the reasons for which are twofold. First, it was left with an inherited financial burden when it was underfunded for years. The Bracks government had to put in extra money just to stop it falling over. The government did that, and it succeeded.

Dr Napthine — On a point of order, Mr Speaker, the minister is debating the question. The question specifically related to elective surgery and does not give the minister the realm to have a general discussion about Geelong hospital.

The SPEAKER — Order! I ask the Minister for Health to come back to answering the question.

Mr THWAITES — The second problem the hospital has faced, which impacts on elective surgery, is the failure of the Howard government to provide adequate funding for commonwealth nursing home beds. It was with some interest that today I noted a report in the *Geelong Advertiser* about aged care people waiting 21 days for nursing home beds. That is a situation the hospital has to face. It now has something like 30 or 32 patients waiting for commonwealth nursing home beds. The real problem the hospital faces is that patients are now waiting so long that they are taking up literally hundreds of hospital bed days which could be used to treat many more elective patients.

Mr McArthur — On a point of order, Mr Speaker, the minister is continuing to debate the question. Patients have to bypass the hospital, and the minister wants to bypass the blame!

The SPEAKER — Order! There is no point of order. I ask the minister to come back to answering the question.

Mr THWAITES — The question related to elective surgery. Of course elective surgery patients are unable to get in if the hospital is full of aged care patients who cannot get commonwealth nursing home beds.

I quote from the chairwoman of the Barwon region of the Victorian Association of Health and Extended Care, Joy Leggo — a third party — who yesterday said that Geelong residents could wait anything up to two years — two years — for appropriate aged care placement.

The government will do everything that it can — —

Mr Vogels — On a point of order, Mr Speaker, I have been listening to the Minister for Health very carefully. The truth is that two of my patients cannot get into the hospital because the anaesthetists are on strike. They will not work. It has nothing to do with aged care. They cannot get anaesthetists to do the job.

Honourable members interjecting.

The SPEAKER — Order! The honourable member for Warrnambool is entitled to raise a point of order. The Chair just could not hear it. I ask the house to be quiet.

Mr Vogels — The point of order I raise is that the minister is not answering the question at all. The reason no operations are occurring in the Geelong hospital is that the anaesthetists are not there to do the job. It has nothing to do with aged care.

Honourable members interjecting.

The SPEAKER — Order! The latter part of the point of order is clearly out of order. Regarding the first part about the Minister for Health not answering the question, the Chair has ruled on numerous occasions that as long as a minister is relevant in his answer, the Chair will continue to hear him. The Chair is not in a position to require a minister to answer a question in any particular way. The minister was being relevant, and I will continue to hear him.

Mr THWAITES — The government will continue to put additional funds into the Geelong hospital. It is doing that — and it will continue to do that. The government will also put additional nurses into the hospital — and it is doing that. It will continue to open additional beds at the Geelong hospital — and it is doing that. However, whatever the government does is being severely constrained by the failure of the Howard government to provide a sufficient number of nursing home beds so our older citizens are not waiting 3, 4, 5 or 6 weeks for a nursing home bed.

Police: strength

Mr HOLDING (Springvale) — Will the Minister for Police and Emergency Services inform the house of the progress of the Bracks government's commitment to get 800 more police onto Victorian streets?

Mr HAERMEYER (Minister for Police and Emergency Services) — I congratulate the honourable member for Springvale on the interest he has taken in law and order in this state. I have to say at this stage that the Bracks government is exactly half way into its elected four-year term of government. As the house is probably aware, the government committed to putting 800 additional police on the streets to turn around the damage the previous government did to our wonderful police force, of which the Victorian community is very proud.

Under those circumstances honourable members may expect me to stand here today and say that we have 400 additional police on the streets. I have to admit I cannot stand here and say that today — because the number of extra police on the streets is 556! So half way into the term of government we are over two-thirds — nearly three-quarters — of the way towards achieving the target of 800 additional police that the opposition said could not be achieved and that the former government deprived Victoria of when it cut into Victoria's police. We are well ahead of target. If you add the recruits we are well over 660. Tomorrow the first class of police recruits that has resulted from our highly successful police recruiting campaign will graduate from the academy. To date we have had 50 000 inquiries resulting from that campaign, so it has given us a very sound base from which to recruit those police.

In addition, the attrition rate in Victoria, which was exceptionally high under the previous government, is now down to 2.3 per cent — not only the lowest attrition rate for any police force in the country but one of the lowest for any Australian work force. If you compare that with the New South Wales attrition rate of 5.6 per cent it stands us in fairly good stead. In addition we are now getting five former police offers a week reapplying for positions with Victoria Police, so that where our attrition rate is around 20 to 23 a month the number of police officers a month wanting to rejoin is 25.

It is good news for Victoria Police, although I know that the honourable members opposite do not like it. They are the only people I know who buy a packet of razor blades when they hear good news. I can understand their embarrassment because they cut the strength of and destroyed our police force, they aided and abetted crime, and now they are running round like vigilantes demanding that something be done about the vandalism and destruction they perpetrated on the Victorian community. That is why they are sitting over there and we are sitting on the government benches.

The SPEAKER — Order! I ask the Minister for Police and Emergency Services to desist from debating the question.

Mrs Peulich — On a point of order, Mr Speaker, apart from the fact that the minister is debating the

question, he has yet again repeated today what he repeated last night — he accused this side of the house of aiding and abetting crime. That in itself is unparliamentary. and it is offensive. Last night the minister was tired and emotional and therefore I did not ask him to withdraw, but today I do so.

The SPEAKER — Order! Would the honourable member for Bentleigh make her point of order clear?

Mrs Peulich — I am asking the Minister for Police and Emergency Services to withdraw the unparliamentary and offensive remark that honourable members on this side of the house aid and abet crime.

Mr Batchelor — On the point of order, Mr Speaker, the honourable member for Bentleigh was referring to standing order 108, which has been ruled on on many occasions. To be regarded as offensive it cannot be in the sense of being directed toward a group, it has to be directed at an individual.

The SPEAKER — Order! The practice in this house is that where a comment has been directed at an individual honourable member who has found the comment offensive the Chair may require the comment to be withdrawn. The comment made by the Minister for Police and Emergency Services was not directed at any individual in particular and therefore I do not uphold the point of order raised by the honourable member for Bentleigh.

Mrs Peulich — On a further point of order, Mr Speaker, I have taken personal offence at the minister's remark and I ask him to withdraw it.

The SPEAKER — Order! It appears that the honourable member for Bentleigh has taken personal offence to the comment made by the Minister for Police and Emergency Services and the Chair asks for his cooperation to withdraw that imputation against the honourable member for Bentleigh.

Mr HAERMEYER — Since the honourable member for Bentleigh is putting her hand up, I withdraw anything she takes offence to.

Mrs Peulich — On a further point of order, Mr Speaker, apart from the fact that the withdrawal was not unqualified, the inference is that in fact I have put up my hand and am somehow therefore guilty of aiding and abetting crime. I ask the minister to withdraw that remark.

The SPEAKER — Order! The honourable member for Bentleigh has taken further offence at the comment by the Minister for Police and Emergency Services. I ask him to withdraw his comment unequivocally.

Mr HAERMEYER — I withdraw that part of the previous withdrawal that she takes offence to.

Hospitals: government performance

Mr DOYLE (Malvern) — Can the Minister for Health identify a single *Hospital Services Report* indicator, whether waiting lists, ambulance bypass, people waiting on trolleys, people treated within an ideal time or people who have had operations cancelled, on which this government has performed better than the previous government?

Mr THWAITES (Minister for Health) — I am very happy to. On the first ground, the finances of our hospitals, when we came into office — —

Honourable members interjecting.

Mr THWAITES — They don't want to know about it! They are not interested!

When we came into office we had three hospital networks technically bankrupt. We had — —

Honourable members interjecting.

Mr THWAITES — You asked the question!

We had net hospital assets reduced from $76 million in 1992 to negative $12.5 million in December 1999. I am pleased to advise the house on the hospital finances. We have turned the situation around such that this year hospitals will have a net surplus of $32 million.

Mr Doyle — On a point of order, Mr Speaker, the minister is debating the question. I wanted one indicator — just one indicator!

The SPEAKER — Order! I do not uphold the point of order.

Mr THWAITES — Thank you, Honourable Speaker. The first one, hospital finances: when we came in the hospitals were broke, we turned that around to a $32 million surplus; no. 2, we came into government in a situation where waiting lists had increased in the last 12 months of the Kennett government by nearly 4000 — from 36 754 to 40 293. We have reduced waiting lists in the last year. This would be the first time in a decade — —

Honourable members interjecting.

Mr THWAITES — They don't like the answer.

This would be the first time in a decade where we have seen waiting lists go down on an annual basis — the first time! Take the regions such as Ballarat, where I am pleased to be going with the Premier next Wednesday to open new facilities. When we came into office, in Ballarat on 30 June 1999 there were 2151 patients on the waiting list. On 30 June 2001 there were 1478 — a reduction of some 600.

Honourable members interjecting.

Mr THWAITES — Look at them all!

The SPEAKER — Order! I ask the honourable member for Knox to cease interjecting.

Mr THWAITES — The honourable member for Knox is complaining about waiting lists in the eastern suburbs. On 30 June 1999, when he was in government, the waiting list was 1604. The latest figure for 30 June this year is 911.

Mr McArthur interjected.

Mr THWAITES — The honourable member for Monbulk — —

The SPEAKER — Order! I cannot allow question time to continue with that barrage or level of interjection.

Mr THWAITES — The honourable member for Monbulk was interjecting and pointing his arm. On 30 June 1999, at his hospital, the Angliss hospital, the waiting list was 637. The waiting list on 30 June this year was four hundred and — —

Mr Doyle — On a point of order, Mr Speaker, on the matter of debating and of relevance, since the minister is using waiting lists for individual hospitals, can he therefore confirm overall that the figure in June 1999 was 40 153 and two years later it is 41 838?

The SPEAKER — Order! The honourable member for Malvern is now attempting to ask a supplementary question. The question that he posed to the Minister for Health asked for a comparison between what is occurring now and what occurred in the past. The minister has been relevant in answering that question. However, the question is very broad. I ask the minister to be succinct in his answer. He has not got unlimited time to answer the question.

Mr THWAITES — There are so many places that I could go through where we are seeing an improvement. As I indicated, in the last 12 months we have seen for the first time in a decade the waiting lists go down. One area where things have got a lot worse is the number of aged care patients waiting in our hospital beds because the commonwealth government will not provide enough aged care beds.

Preschools: participation rate

Mr TREZISE (Geelong) — Will the Minister for Community Services inform the house of the impact of the Bracks government's policies on the preschool participation rate?

Ms CAMPBELL (Minister for Community Services) — I thank the honourable member for Geelong for this important question. Initiatives undertaken by the Bracks government have resulted in increased participation rates in this state. The government has also increased the quality of our preschool education and made it far more accessible for families. Last year under the Bracks government preschool participation soared in this state to an historic high. The government was very proud of that. However, this year the numbers have gone even higher as a result of this government's continued work.

Under the Kennett government, of course, there was a very sad state of affairs. Not only was more than $10 million removed from preschools, but we had the lowest participation rate ever in this state. In February 1999, 91.8 per cent of the state's preschoolers were enrolled. Is it any wonder that under the previous government 'People first' was removed from the logo of the Department of Human Services? It was removed by the previous government because it did not put people first!

The SPEAKER — Order! I ask the minister to come back to the question that was raised.

Ms CAMPBELL — This government was elected because it has made Victoria the place to be. As a result of the government increasing resources, as at April 2001, 96 per cent of preschoolers were enrolled in a program. That is fantastic. The figures are even more spectacular in the non-metropolitan area. Under the previous government, in February 1999 participation in non-metropolitan area preschools was down to 90.7 per cent. That alarming figure was the lowest level ever in the state. In April 2001 the non-metropolitan preschool participation was at 97.3 per cent — a spectacular figure.

The results are clear. The government has turned around preschool participation and has made it particularly strong in rural and regional Victoria. The government has been able to do this because it has made it more affordable and has made sure that health

care card holder families receive a $250 rebate on their preschool fees. The government has also acted decently to make sure that programs are robust and that the regulations are monitored. It is also pursuing a vision for the future. The government intends to ensure that every four-year-old in this state has the opportunity to gain the educational and social advantage of a preschool year before they begin those important years in primary school.

The government has also been able to do this because it has improved teachers' salaries. There are more children enrolled, and more teachers are getting increased salaries. A 6 per cent salary increase for early childhood teachers has been agreed. The government has also undertaken a thorough review of Victorian preschools. It will work in partnership to deliver that vision for preschoolers.

The Bracks Labor government has turned preschool participation around to its highest percentage level ever. It is delivering for preschoolers in Victoria.

Roads: black spot program

Mr ROWE (Cranbourne) — In view of the $192 million loss incurred by the Transport Accident Commission last year, will the Minister for Workcover guarantee that the accident black spot program will continue once the current program has been completed?

Mr CAMERON (Minister for Workcover) — As honourable members are aware, the Transport Accident Commission is in a healthy position, making a TAC insurance profit of $237 million. The government made election commitments about the program, and this government delivers.

City Link: water use

Mr WYNNE (Richmond) — Will the Minister for Transport inform the house of the outcome of negotiations with Transurban concerning the use of water for City Link?

Mr BATCHELOR (Minister for Transport) — I thank the honourable member for Richmond for his question and his interest in this inquiry, unlike members of the opposition, who have shown no concern about how to look after Melbourne's scarce and precious drinking water. We never heard them say anything at all about the difficulties!

Honourable members will be aware that as a result of the construction of the Burnley and Domain tunnels there is an ongoing need to recharge the ground water table in the surrounding area. Unfortunately, because of the arrangements that were put in place by the previous government that involved the use of drinking water. The previous government put in place arrangements that squandered this scarce and precious resource.

The Bracks government has been extremely concerned about this matter and has been actively working with Transurban to try to resolve the problem and identify the issues. Unlike the Kennett government, which was more than happy to have more than 1 million litres of drinking water a day diverted for this purpose, it has been working with Transurban to try to find a resolution.

I am pleased to announce today that together with my colleague the Minister for Environment and Conservation and Transurban we have found a solution. It will see a 99 per cent reduction in the use of drinking water for the recharge of the water table, a solution that has been delivered under this government and something the previous government could never have done. We have been spending our time cleaning up the mess it left behind.

As a result of this agreement, Transurban will invest $1.12 million to build a recycling plant in Richmond and then build a reticulation system to distribute the recycled water around the various recharge points so it can be used to top up the ground water table.

My colleague the Minister for Environment and Conservation and the Environment Protection Authority will continue to work with Transurban to finalise the design agreements and the operation of this recycling plant and ensure that the recycled water meets the appropriate environmental standards. I congratulate Transurban, the EPA and the Melbourne City Link Authority on their cooperation and collaboration in resolving this issue and, more importantly, on finding a long-term solution. This is a win-win approach to environment and transport management issues, which this government is prepared to address — unlike the previous Liberal and National Party government, which was never capable in government of addressing. And in opposition the Liberal and National parties are incapable of dealing with the measures that are required to resolve these types of issues.

Mr McArthur — On a point of order, Mr Speaker, the minister is clearly misleading the house. The licence which required the use of drinking water to recharge the tunnel was issued by the Bracks government in June last year.

The SPEAKER — Order! It is clearly not a point of order. Has the minister concluded his answer?

Mr BATCHELOR — Yes.

BUILDING (AMENDMENT) BILL

Second reading

Debate resumed.

Ms BURKE (Prahran) — I am pleased to make my contribution to the debate on the Building (Amendment) Bill, which to use a building term is a nuts-and-bolts bill.

The first clause deals with the change of name of the Building Control Commission by removing the word 'control'. Anyone who has been involved with the building industry over the last number of years, and going back to when I was involved with local government, would know there has been a need to put the word 'control' in the name. If honourable members could see some of the shoddy building practices they would be horrified. Things have changed considerably. The commission has played an extremely important role in improving the conditions for people who are building, and there is now much better construction.

The bill also brings the Building Act into line with Rescode, which is the Bracks government's new whiz-bang planning scheme. For quite some time an argument has been put forward that a planning permit must relate to a building permit, and the act that was introduced earlier this year provided for that. However, there are many instances where there will be a building permit and not a planning permit. For example, under Rescode in dealing with a single dwelling you do not need a planning permit but you do need a building permit. Certain ministers will not require planning permits but they do require building permits, and the same applies to commonwealth land. The issues relating to that are more about bringing the building code into line with the new Rescode, but it is interesting to note that. Those issues relate to clause 4 of the bill

Clause 5 exempts the minister from requiring a regulatory impact statement to be presented for certain amendments, such as the planning and environment scheme changes which lay on the table in Parliament for three weeks. The issue of consultation has been quite different since the 1985 act was passed and people have plenty of time to consult with their communities. While it is important for the community to be involved in consultation it is also important for members of Parliament to understand what is happening and what is changing. I will be interested to see what happens with that.

Clause 6 is probably one of the most important clauses. It relates to the important tightening up of the requirements for swimming pool gates and the penalties involved. It is interesting to note that they are five times the general penalties for planning breaches. It is a serious issue. This house should note that you can bring in as many regulations and penalties relating to swimming pools and safety with children as you want, but unless there is an education process that goes with that and an understanding of these rules, requirements and expectations of the community little will change. At the end of the day, as the honourable member for Mitcham said, once there is a death of a child it would not matter what the penalty is because that person will be punished for the rest of their life. So education is an important part of tightening up the requirements for pool gates et cetera.

The insurance provisions in clause 7 are most interesting. In the municipality which I served for many years as a councillor and now represent as a member of Parliament there are many historic houses which have adjoining walls with neighbouring houses. Incredible damage can happen to those neighbouring houses when building is taking place and people are fearful about what might occur to their properties. There is an anomaly in the Insurance Act that does not allow those people to insure against that damage because it involves someone else's builder, although the builder himself is able to insure. Clause 7 tightens up that issue and makes sure that the builder insures on behalf of the adjoining property so the neighbour can feel a bit safer and more secure in the knowledge that if their property is damaged it will be repaired.

Clause 8 widens the representation on the commission. When the minister went to visit the board some time ago he was pleased with the achievements and operation of the commission thus far and paid particular tribute to the strength and quality of professional representation and business acumen displayed by the members of the various statutory bodies and the provision of an independent viewpoint. He thanked the members for their dedication and for their contribution to best practice and excellence in building construction. I have to agree with the minister: I think they have done an absolutely magnificent job, so I am querying why he does not think the board is adequate now.

Yes, a lawyer is always handy — if you want to complicate things — and the idea of a consumer representative is a good one. There is, however, the problem of the sorts of people who always want to be on such boards. It is a successful board; but it is important to have someone on it who does not have a conflict of interest in building and development matters,

someone who can look at matters through the eyes of the community. It will be interesting to see how that goes.

Clause 9 substitutes proposed new section 176(2A) in the Building Act 1993. The new provisions require that a builder carrying out domestic building of a particular category or class must be registered by the Building Practitioners Board. That wording removes an unusual anomaly whereby previously one might be granted the right to build commercial buildings but not domestic buildings. The proposed new subsection tidies that up and is a very good idea.

Clause 10 enables the Building Practitioners Board to conduct an inquiry. I think that is important. The inquiry will go on despite the fact that the person is no longer a builder or cannot practise as a builder under the Builders Practitioners Board because their licence has been revoked. It is going to be important that we have some sort of justice and do not continue to have witch-hunts, which I am sure we will not.

Clause 11 is important and is about the flexibility of the work force. It seems to make sense to delegate functions under the act or the regulations to other building surveyors under part 11 of the Building Act 1993 so other qualified people can continue on with works rather than leaving all the load on the shoulders of one person.

Clause 12 is probably the clause that caused most disappointment in the consultations I had with the local government industry. It was not that they did not think clause 12 was a good idea. There had been some confusion for some time about whether the minister is responsible for Crown land. In fact the minister is not involved in Crown land as such; it is the lessee that is actually involved in how the building on that site is handled. The responsibility is removed from the Crown and from the minister and now is returned to local government. The building surveyors are concerned about the amount of money needed and the time involved. That is something we are yet to ascertain, but maybe the fines will cover it.

Clause 13 enables consistency of fees across the state. That is another issue people in the local government industry are concerned about — the shifting of costs down to local government and the unfunded mandates. They feel that every time the state puts something through relating to work going back to local government the necessary funds do not come with it. They are not against the principle or the idea but they are concerned. Some of them feel it is a good idea to have consistency of fees across the state, but issues in some municipalities are much more complex than the issues in other municipalities. Let us hope those concerned can work through that matter adequately with the state government.

The rest of the bill generally makes changes that have been needed for some time. Many simply revoke or change provisions in the act such as a change of name, a few new members on a board, keeping the Building Act in line with the new Rescode, important swimming pool provisions and various transfers of responsibility, fees and so on. I wish the bill good passage.

Mrs MADDIGAN (Essendon) — I am pleased to support the Building (Amendment) Act, which proposes excellent reforms to planning and building provisions in Rescode.

Rescode has been very warmly welcomed in suburbs like mine, which suffered so badly from the previous government's planning guidelines, the *Good Design Guide*. It was communities like mine, either urban or middle urban, that had very little vacant land which suffered so severely under those previous guidelines. They lacked prescription and caused many problems in the processing of permits. The end result was often unsatisfactory, leading to a great deal of distress in my community. People saw totally inappropriate developments being built next to their family homes.

In the end, and quite unfairly, they could be living happily in their own homes and minding their own business and suddenly find they had to become instant town planning experts to defend their properties from some sort of development that might occur next door. That brought on a very adversarial planning process, which in the end was very costly to all parties and caused a lot of heartache in the community. The introduction of Rescode has diminished that quite substantially. I have found that most people in communities like mine, apart from some members of the opposition, who seem to have problems with it, are very pleased with Rescode. The bill supplements all that.

The honourable member for Prahran made the point that not all building permits require planning permits, and that is true. That is precisely why the bill is being introduced. With the review of planning guidelines there was a suggestion that planning controls were required for single dwellings. When that was looked at councils involved in the discussion were concerned that it would be a very costly and time-consuming process, so it was considered that the more reasonable way of doing that was through the building provisions. This bill supports that decision, and is warmly supported by

local councils because it is a much more effective way of doing it.

The bill allows for changes to the schedules in the building regulations relating to residential zones and areas that are of considerable concern to local residents. They are things about which we have heard complaints time and again under previous guidelines — that is, street setbacks, building heights, site coverage, side and rear setbacks and private open space. Allowing these to be considered in building permits will make a substantial difference to the character of neighbourhoods and certainly support residents in their concern about the sort of changes they used to have to put up with.

I have been a bit surprised that a couple of the members of the opposition have tended to denigrate the bill. It has a number of quite important provisions. I am not sure that they have understood the context of some of the changes made by the bill, particularly the one mentioned by the honourable member for Hawthorn — that is, the change in the name from the Building Control Commission to the Building Commission, which has come from the industry. It is quite clear why that is a much more appropriate name.

The commission is and wants to be much more than a single regulatory control body. Having 'control' in the title implies that it is something like a building police person. Whilst there is still provision for the Building Commission to have that role, it will have a much more expanded role and be much more involved in overall building matters, community consultation and other areas that will give it a much more important role in the building industry. Changing the name makes it quite clear that the Building Commission will have a much wider role and that it will not be just doing piecemeal research into various developments but will be leading major building innovation. There will be not just legislative scrutiny but transparent accountability about how the building area is operating. A whole range of areas that have come from the conference will make the Building Commission much better. The change of name is very sensible and helps set the scene for the commission to have a different role.

Some of the other provisions of the bill are also very important — for example, the one about insurance. In some parts of my electorate, particularly in the Ascot Vale area, where there are a number of terrace houses, the concerns about what might happen to houses when developments are going on next door are very significant and the insurance protection work can be very sad. I am sure all honourable members know of people who have lived in a terrace where one of the owners has decided to build a cellar underneath their house, which has led to collapses of walls between properties. That provision in clause 7 will be greatly appreciated by people who live in very close proximity to their neighbours.

The swimming pool safety controls will be very strongly supported by everybody in the community. When the swimming pool fence legislation was passed, initially there was a significant problem. I know that from personal experience because I had to have a swimming pool fence put up fairly shortly after that. I found that even though the contractors were specialists in swimming pool fencing they had no idea what the provisions were. I had some quite heated arguments with them, insisting that the provisions had changed and that they had to meet certain standards. It really came as a bit of a surprise to them. I mentioned that to the Minister for Planning as soon as we got into government.

I know a lot of educative work has been done about the provisions relating to backyard pools, not only for the community generally but also particularly for those people who build fences. The provision that relates to gates is part of the legislation. A lot of education work has been put out in the community, including the Kidsafe documents about toddlers and water safety and the water safety bulletins relating to those sorts of things. It is very hard sometimes to get the message across so it is still important that the government continue to educate not only owners of swimming pools but also people in businesses that construct swimming pools to understand that the regulations relating to swimming pool fences are very tight and that they have to be followed quite strictly. People cannot get a certificate to use a swimming pool until the fence is approved by a building surveyor. Certainly building surveyors have been very good and very strict in ensuring that when they have inspected swimming pool fences those fences have complied with the legislation.

On clause 8, which relates to membership of statutory bodies, the fact that the government wishes to change the membership of those bodies is not, as was suggested by the honourable member for Prahran, a reflection that something is wrong with those bodies. On the contrary, those bodies are generally well regarded and have operated well. The government has a strong view that consumers and everyone else in the community should have the right to have their views put forward. The inclusion of a consumer representative is very sound and will certainly help broaden the views of the bodies from the decision-making aspect. Whilst it is impossible, of course, to have representatives from all parts of the community, broader representation on

any sort of committee results in better decisions being made because it enables people to have broader views. Things are seen from different perspectives because people have quite different ways of looking at things, and that is a way of getting much better decisions. It is a very strong measure that people will be very pleased to have in place.

I will not refer to all the provisions in the bill because I know many honourable members wish to make a contribution this afternoon. It is very refreshing to have coming through the house this sort of enabling legislation to allow the community to be much more involved in the planning and building processes and to feel secure that the decisions that are being made will protect the general community as well as those people who are in the process of erecting either single or multi-unit dwellings. People in my neighbourhood have been very keen about the increase in strength of the recognition of neighbourhood character. That sort of provision has been widely and warmly received. It is a relief to people, who can now rely on those provisions to see that councils follow them, that decisions taken on appeal to the Victorian Civil and Administrative Tribunal will also follow the government's policy on neighbourhood character, and that some of the awful buildings that were put up previously will no longer be able to be built.

More legislation will probably be introduced as the government tidies up following the really quite massive change in the planning regulations in this state. People will know that now we will have regulations that work and, as I said, legislation that will protect people who own their houses as well as people who try to build properties. That has already improved the community's perception of planning. The minister and his staff, the department and the people involved in the Building Control Commission should be congratulated on the great work they have done in their educative program to make the community aware of the changes in the provisions and for the enthusiasm with which they have been able to explain the changes to people and interested community groups. The community is now much more relaxed about planning and building decisions. I know that my residents will be pleased when the bill is passed as another part of the excellent Rescode proposals.

Mr WELLS (Wantirna) — I wish to make a very brief contribution to the debate on the Building (Amendment) Bill. It is with regard to clause 6 in relation to building regulations with respect to swimming pools and spas.

In 1991, when I was running for the state seat of Wantirna, the Labor Party ran a very strong campaign saying that I did not live inside my electorate. It did not matter that I was only 1.6 kilometres outside, and members of the Labor Party dragged that out for quite some time. My wife and I decided to buy a new house in the seat of Wantirna. The new house had a swimming pool, which we were very excited about, but unfortunately it did not have a pool fence. As parents of a two-year-old and a one-year-old at that stage we decided that we would have the pool fence built before we moved in. We were grateful that we made that decision.

I can tell honourable members that when you are walking with very young children around a pool it does not matter how close you are walking to them, sooner or later and at different times one or both will fall in. The sparkling water has an attraction for them. They can be crawling along or walking along and there will be something in the pool that they have to get out of the pool or touch. You can be within a metre in front of a child and turn around and find the child is in the water.

As time goes by and the children grow up the pool attracts a number of other young people from the neighbourhood to swim in it. What used to happen some years ago was that when teenagers came to swim in the pool they would leave the pool gate ajar because it made access to the pool easier. As the teenagers were four or five years older than our children we had a very clear rule that if anyone left the pool gate ajar they would be immediately banned from the swimming pool. It did not take long for that message to get through to the people who wanted to use the pool. It is a great concern to parents that when bigger kids leave a pool gate ajar it is a great temptation to the younger four-year-olds or five-year-olds to walk in and be part of the action with the older people wanting to swim. It makes it very unsafe for them.

This is an excellent piece of legislation, and I pay tribute to the honourable member for Knox, who raised the issue in the house last week — or perhaps the week before — that if you are going to make regulations in regard to pools and if you are going to have a rule that makes it an offence to leave a pool gate open or to jam it open, which is so easily done, then you will be penalised 50 penalty units. I strongly support that part of the legislation.

Ms OVERINGTON (Ballarat West) — I, too, am pleased to speak on the Building (Amendment) Bill. The main purpose of the bill is to amend the Building Act 1993. This will ensure that the name of the Building Control Commission will change to the

Building Commission. I should point out that this is because of requests from industry and the key stakeholders. It will also make it less complicated when applying, adopting or incorporating planning schemes into the building regulations. It will broaden the scope of people who may be appointed as members of various bodies established under the act.

As we know, the Bracks government implemented Rescode in August this year. It resulted from the failure of the *Good Design Guide* to give proper protection and consideration of important planning aspects such as appropriate setback, overshadowing, protection, and enhancing neighbourhood character. As a long-time councillor I was very much aware of the failures of the *Good Design Guide*.

People who visit the electorate of Ballarat West and the City of Ballarat will know of the great character of the city's historic streetscapes. Ballarat has many magnificent historic buildings. Throughout the period of the *Good Design Guide* it became apparent that in some areas the character of those wonderful streetscapes was in danger and could be in danger in the future. At that time a group of concerned citizens formed the Ballarat Committee for Thoughtful Development, the formation of which, I would suggest, came on the back of the formation of the Save Our Suburbs group in Melbourne. The Ballarat Committee for Thoughtful Development was and continues to be an effective watchdog of development and of the continuing good character of the building landscape of Ballarat. I congratulate that committee on the important role that it has played in ensuring that, in most instances, the city council has made the right decisions. That is important.

Rescode ensures that consistent standards are applied across building and planning systems and enables councils to vary some standards in keeping with proper processes and ensuring that their planning decisions are the most appropriate for their areas. Rescode has been strongly endorsed by local government and other stakeholders. Once again, I know that within Ballarat the city council has welcomed the changes that come with Rescode and the certainty that it gives them when making planning decisions that they will be appropriate.

I have also been advised by all the key stakeholders that it has been extremely refreshing to be consulted and involved in the development of Rescode. As we know, there was no consultation with industry, councils or the community when the *Good Design Guide* was introduced. Once again a process was imposed by the previous government without consultation.

To enable councils to vary six Rescode standards related to street setback; building height, which can cause problems with overshadowing and privacy issues; site coverage; side and rear setbacks, which again can cause enormous problems; private open space; and front fence height, which can impact on streetscape character, it is necessary to incorporate certain provisions of planning schemes into the Building Regulations 1994.

Listening to the debate last night and today I have heard other honourable members use examples within their areas of some of the horrors that resulted from the *Good Design Guide*. I will not do that, except to say to the house that I, too, know of instances where people have been disadvantaged in their own private space — and your own house is a private space — by overshadowing and lack of consideration by others in their neighbourhoods. Those examples are too numerous to mention.

Currently there is an unnecessary duplication of processes in the case of planning schemes, and this bill will incorporate and streamline the planning process. At the same time it will ensure that there is adequate and consistent cross-referencing.

The bill also contains amendments that will enable the penalty units for noncompliance to be increased from 10 penalty units, or $1000, to 50 penalty units, or $5000, in relation to swimming pool construction, fencing and, as we have heard, gates.

I am sure that, as other honourable members have said, the increase in the penalty to $5000 may not be enough. The honourable member for Mitcham raised the point this morning that for those unfortunate families who may have lost a child by drowning there is no penalty that could be applied that would be worse than the death of a child.

However, having said that, those requirements have been in place for a long time. Some people remain complacent and think, 'It always happens to somebody else but it will not happen to me'. If the only way we can convince those people that they need to comply with the safety regulations is by increasing the penalties, I believe half a million dollars would not be too much. I feel strongly about that.

The bill and the introduction of Rescode are another fulfilment of the Bracks Labor government's pre-election commitments. Rescode replaces the *Good Design Guide*, which was implemented without consultation. I was very pleased to be invited to open the Ballarat information session on Rescode. It was

attended by about 200 people from across the whole of the industry, all of whom were enthusiastic about its introduction. I welcome Rescode, because I am sure it will ensure that the good character of Ballarat is maintained. I commend the bill to the house.

Ms BEATTIE (Tullamarine) — Along with other government members it gives me pleasure to contribute to debate on the bill, which, as honourable members know, had its genesis in an Australian Labor Party pre-election promise to produce a new comprehensive residential code. All sections of the community are very pleased that the bill has been introduced.

One of the purposes of the bill is to amend the Building Act 1993 to change the title of the Building Control Commission to the Building Commission so that the commission's title does not sound almost police-like. It will also streamline the processes involved in applying, adopting and incorporating planning schemes into the building regulations, widen the classes of persons who can be appointed as members of various bodies established under the act, and make other improvements to the operation of the act.

It is important that the background to the bill be explained so the house will appreciate why government members are taking such delight in speaking on the bill. Honourable members know that the former government could not get it right when it came to planning. A mini-revolt happened out in the suburbs because of the former government's so-called *Good Design Guide*. That may have been the title, but it certainly was not good and it certainly was not a guide. It certainly was not a good design guide! In its place we will have Rescode.

My electorate of Tullamarine is in the northern suburbs. I well remember one day going to visit a friend in the so-called leafy eastern suburbs and turning into a street only to be confronted with signage in front of every house. I thought, 'How unusual that every house in the street is for sale'. But every house in the street was not for sale. Each had a large billboard erected saying that the owner would object to bad and inappropriate planning. The signs were putting developers on notice that the residents valued their neighbourhood character and intended to fight tooth and nail if a developer tried to change the character of their neighbourhood.

In many cases the former government took no notice of the residents. Things were called in and dealt with at a ministerial level without any concern for the interests of the residents. Therefore this legislation is welcome, and I know municipalities, developers and residents also welcome it. It gives clear guidelines on what should happen, yet it retains neighbourhood character, which can be precious.

We all have our own ideas of good taste. Neighbourhood character need not be about only nice little 100-year-old cottages. Some people in particular neighbourhoods believe good character can be tripled-fronted cream brick veneer houses. Who are we to be the judges of that?

As I said, Rescode delivers on a pre-election commitment. It is a package of tools, implemented through planning schemes and building regulations, to manage residential development. Key aspects of Rescode include a focus on protecting and enhancing neighbourhood character; protecting the amenity of residential properties; and providing certainty and consistency in approval processes. Those are achieved through the application of consistent standards. I emphasise 'consistent standards', because that was not evident under the former government.

Those standards should apply across the building and planning system and enable councils to vary some standards while retaining existing approval processes. Rescode has been implemented with overwhelming support from key stakeholders and various groups. It reflects the benefits of the government's commitment to extensive consultation. It is not unusual for planning guidelines and other matters to undergo extensive community consultation. We had to get this right, and I believe we have got it right, because the government has consulted and talked to all the stakeholders.

I am a member of the Scrutiny of Acts and Regulations Committee. During its deliberations the committee noted that proposed section 15A is a departure from the general regulation power in section 262 that prescribes fines of up to 10 penalty units, which usually is $1000. The bill provides for greater penalties. It calls for fines exceeding 20 penalty units or imprisonment, which should be dealt with in primary rather than subordinate legislation. The committee has drawn the attention of Parliament to the provision; it felt strict penalties should be imposed for planning matters.

To implement the key amenity concepts that are part of Rescode it is necessary to incorporate several provisions of planning schemes into the 1994 building regulations. Those provisions are in the schedules to residential zones, which enable councils to vary the six Rescode standards relating to street setbacks, building height, site coverage, site and rear setbacks, private open space, and front fence height.

I shall tell the house about the street in which I live, which is the ultimate in bad planning. We live in a rather new area, and our house is one of only seven houses in a court. The street has no footpaths dividing the gardens and nature strips; they and the front gardens are all one.

We do not own the front part of the block but we maintain it. We cannot put a letterbox on the front part of the block, so the postman has to ride over the grass to get to the letterbox, but the silliness of the planning comes when it is rubbish night. Because of a council by-law we cannot park on our own nature strip — and there is no nature strip — yet if we leave our car in the street, the garbage truck cannot get past; so it is really a silly situation, yet the local municipality has been fining people for parking on their own nature strips. I often wonder, if there were some sort of emergency, how an emergency vehicle would get down our court.

We have to look to the municipalities to tighten their planning codes as well and to use a bit of commonsense in their planning, and this bill should allow them to do that. In terms of front fence height, many councils have covenants that say that you cannot build a front fence, but councils are best equipped to deal with these matters, and they can do so under Rescode.

In the case of planning schemes the requirements of section 32 of the Interpretation of Legislation Act would duplicate the provision of the Planning and Environment Act 1987 which requires planning schemes to be made available at both council offices and at the Department of Infrastructure; and because planning schemes are frequently amended, again following extensive community consultation, the requirement that every amendment also be tabled would result in significant administration costs without public benefit.

For these very reasons, and to facilitate adequate cross-referencing and consistency between planning schemes and the building regulations, the bill provides that section 32 of the Interpretation of Legislation Act does not apply where provisions of planning schemes are applied, adopted, and incorporated by reference into the planning schemes.

There are various clauses relating to swimming pools, and side and front setbacks. I know other members on this side wish to speak on this because it really is one of the issues that caused great angst among the community and highlighted the need for this government to go through the public consultation process to get it right rather than going along as it was with the minister calling things in willy-nilly, riding roughshod over local councils, with neighbourhoods being completely changed in character.

So it is with great pleasure that I speak on the bill, and I wish it a speedy passage and commend it to the house.

Mr SMITH (Glen Waverley) — I wish to make a few comments on the part of the bill that is being called the Hurtle Lupton clause. It is a sensible clause, and the Monash City Council seems to be doing its part in this area extremely well.

We hear lots of complaints about councils and where they are going, but our family has had personal experience with the Monash council coming around to check, on three different occasions, to ensure that the pool fencing is right, that the gates are shut, and that access is properly established.

At first I was not aware of the problem that arises when there are railings on the other side of a fence from a property, thus presumably enabling a five-year-old child to climb up the railings and get over the top. In order to rectify this situation the council has produced rather ingenious pieces of wood that can be nailed on the fence so that children cannot get a grip on it, and that seems very sensible. But only if you are a pool owner does the council ensure that these sorts of things are being done. My family was absolutely delighted at the council's suggestion, but I had not previously thought of that means of entry into a garden where a pool, particularly an in-ground pool, is situated.

The various pool police, or whatever they call them in Monash, have come around to ensure that this is done properly. They have been not only helpful, but extremely responsible in the way they have done it. They have not come around with threats, but rather saying that it would be a good idea if this were done, and obviously responsible people take note of what they are saying and get the fences fixed straightaway.

In the period since the former Minister for Planning introduced the new code, which was during the time of the Kennett government, various amendments such as this have been introduced, and they will ensure greater safety.

The other aspect that fascinated me was the fact that on certain windows, particularly windows that slide sideways, the council even has special blocks to prevent the windows from sliding; and for back doors that might lead out to pools, they have $60 clamps that, when opened, slam the jolly thing shut rather quickly, and these precautions again are designed to prevent a tragedy from happening if anyone has a toddler running about in the house.

When our now 10-year-old was born and our family lived at the same place, there were not the requirements that exist today; however, sensible parents would fulfil them anyway. It cost many thousands of dollars to get the pool fencing installed and the various things brought in, but I commend anything that will ensure that the safety of a small child is preserved.

The Hurtle Lupton amendment certainly ensures that, and the government and the Monash council are to be commended for the very sensible way in which they administer this part of the building code.

Mr LONEY (Geelong North) — I welcome the opportunity to make a few comments in relation to the amendments to the Building Act 1993. The thrust of these amendments is to deal with the application, adoption and incorporation of planning schemes into the building regulations underpinning the government's Rescode initiatives. It is an extremely important aspect of this legislation for me and for many other people.

In August of this year the government implemented its new residential code for Victoria, known as Rescode. It replaced the operation previously of Viccode, in most places, for single dwellings. Of course there was considerable concern about Viccode and Viccode 1 and the way they operated. In another part Rescode replaces the *Good Design Guide*, which was also the subject of much discussion, debate and contention within the community. Basically the difference between those two codes was that the *Good Design Guide* was around multiple dwellings, and Viccode 1 was related to single dwellings.

Rescode thus replaces that. It is asking, in planning schemes, for a focus to be put on protecting and enhancing neighbourhood character, protecting the amenity of residential properties, and providing certainty and consistency in approvals processes.

It is particularly that last aspect that I will spend a little time focusing on, because if that achievement is to be made it will require great commitment and the cooperation of the local planning authorities. We will not get good neighbourhood character decisions if the local decisions do not act well in relation to the local neighbourhood character and the properties around them. Therefore this legislation, which enhances those aims and gives regulatory effect to them within the building area, is quite significant.

A number of speakers have commented on problems that have arisen in the past. There have been concerns all over Victoria about the way in which planning has operated. In many cases it has been out of control. That is certainly the case in the City of Greater Geelong, where planning seems to be more abnormal than normal.

The frustrations people go through are well demonstrated by the matter raised with me by people in Geelong West who live in a heritage area where recently Californian bungalows have suffered extremely. The suffering is not just about the development allowed under the so-called *Good Design Guide*, which Rescode will replace, but the treatment of citizens who try to preserve neighbourhood character and integrity.

Some people raised an issue of concern about the demolition of a 1920s Californian bungalow in the area. The council failed to notify or consult the immediate and adjoining property owners by mail, notice on site or other prescribed notice as required under the Planning Environment Act 1987. This decision was made despite the full knowledge that a large number of residents of the precinct had been vocal and concerned on a number of previous planning applications for inappropriate residential developments in the area.

The delegated council officer issued a permit without advertising on the basis that the ward councillor of the day had allegedly discussed the matter with one member of the local heritage group. He felt this conversation was sufficient to negate the requirement to advertise the permit application. Apart from its not being any sort of a process that would be allowed under the previous legislation or this legislation, the building has been demolished. The person who allegedly had the conversation denies having had it and has been the subject of questioning by other local residents saying, 'Why did you talk to them and say it was all right when you knew that we did not support it?'. That person has a problem with her neighbours, but fortunately she is a person of high credibility in the area, so it has been overcome. Effectively it allowed the council to scapegoat a local resident. It was a completely inappropriate way to do it.

Subsequently when the matter was raised with the council as to why no advertising had taken place under the process and why the person had been scapegoated — the council ombudsman had been contacted — the reply back from council was, 'We have reviewed the file. We do not think there is anything wrong with it. Go to the Victorian Civil and Administrative Tribunal (VCAT) if you are upset'. Unless we get better dealings under local planning authorities it will not matter how codes are changed — whether it is the *Good Design Guide*, Viccode 1, Rescode or any other code — and some commitment to

participate in the processes at the local level as well as focusing on the codes we will never get anywhere. There are many other examples I could give.

I refer to a house in Herne Hill that was not approved as a double-story dwelling. Enormous conditions were put on it and although many of those conditions were breached no action was taken. The matter has been to VCAT and the tribunal has ruled on it, but the council is not pursuing it locally or insisting that the building complies with its permit. If that backup or support is not given none of the codes will work. There is a big role for a commitment at the local planning level if these things are to work.

The other area I touch on are the changes that will allow municipal building surveyors to delegate their functions and powers under the act to qualified building surveyors employed in or engaged by the municipal council. That is a wise move. Whether they have the power themselves or it is a delegated power I would like them to use it, and that is the problem I have. Too often within our area the power has not been used. That has created many local problems. Whether the power is delegated or the municipal officer does it, I say to the local council, 'Please do it', because if it is not done that leads to the sorts of things we have had in some of our areas.

Ms Asher interjected.

Mr LONEY — I will come to that. In the Ocean Grove area this issue has been of huge concern for a number of years, even under the previous government. Buildings have been put up that exceed the 7.5 metre height limit. There is an argument about the surveying and as to what is the actual or true ground level for the building. In some areas where the developer does not like the true ground level he fills it in and raises the level by a metre or more and then says, 'That is the ground level we will measure from for the 7.5 metres'. The problem is that the building overshadows every other building in the area.

I refer to a recent case reported in the *Geelong Advertiser* earlier this month under the heading 'Mayor takes on the city — Kontelj in council scrap over ocean views'. It has led to the bizarre situation where the mayor of a city is threatening legal action against his own council over a permit that was issued while he was a participating councillor. How bizarre can you get in a planning scheme! There was argument about the height of a building in Ocean Grove and it was built against people's objections. Directly across the road a permit was issued for another building.

After the completion of one building and after the issuing of the permit for the other building, the Liberal Party mayor of Geelong bought a holiday apartment in the first building. He then wanted to take legal action against his own council regarding the house across the road that his council had issued a permit for because it would interfere with his views. He was not concerned before he bought his own holiday apartment in the building, but was now concerned and wanted to take legal action against his own council. This was after residents had been raising these matters for some time.

One of the spokespersons for Save Ocean Grove Environment, Arda Duck — she is a decent person — was reported saying that it was ironic for the mayor to object to his neighbours plans given the controversial history of his own property. She was reported as stating further:

> 'We feel very sorry for those people trying to build their home', Ms Duck said.

She went on to make the salient point:

> 'I'd like to retrospectively object to those apartments and see how far I get'.

It seems that if you are the Liberal Party mayor the rules do not apply and you can lodge a retrospective objection, not apply by the planning rules and threaten legal action against your own council. The rules do not apply to the mayor as they do to others. The only basis on which you get an interest in planning decisions is if it affects you.

It is not a matter of good planning; it is only when it affects the mayor that something is likely to be done. I am suggesting that that is not a good basis on which to run a planning scheme. While I support what is going on in this bill with the changes to enable Rescode to operate properly and allow building surveyors to delegate their functions, I argue that it would be more than useful if the local planning authorities used the powers available to them to protect local neighbourhood character and integrity and did not just get involved when there was a personal interest.

Mr RICHARDSON (Forest Hill) — There is only a short time left, so my comments will necessarily be brief. One of the things which concerns me about this bill is that on the government side a great deal of prominence seems to have been given to the cosmetic change of name. Frankly, I do not think people care what the organisation is called as long as it does something effective. We have all heard horror stories from our constituents — and many of them have been relayed by colleagues during the debate — of builders

who have defaulted on the permits they were granted and therefore disadvantaged consumers. Matters have been taken to the Building Control Commission, which has often failed to act — and when it has acted it has often done so ineffectively. When things have not worked it has said 'It is all getting too hard. Send it off to VCAT'.

When the Victorian Civil and Administrative Tribunal has given a wrong judgment on an issue — and we have all heard examples of it — the only recourse for the aggrieved party is to take the matter to the Supreme Court. While all this is going on, the money meter is ticking over. The prospect of taking the matter to the Supreme Court, with the attendant barristers fees and the enormous costs associated with all that, makes the whole thing thoroughly untenable, unless the person is terribly wealthy. Frankly, if they are wealthy enough to pursue that course of action, then they probably would not find themselves in trouble in the first place. That is because they could afford a far more substantial builder and therefore be more unlikely to get into the sort of trouble that so many other people have got into.

The references to tightening up the regulations relating to fences and gates around swimming pools are welcome. Indeed, we would all welcome any change in the way the Building Control Commission operates if it makes the commission work better than it has so far. I do not think it matters much what you call it as long as it functions more effectively than we have seen in past years.

Ms DUNCAN (Gisborne) — It gives me pleasure to speak on this Building (Amendment) Bill 2001. I do not think there is an issue that creates greater contention in any area than planning. People in my area of Gisborne want to maintain its unique natural environment. Under the previous planning schemes no account was taken of the amenity of the surrounding areas. We now have an opportunity to preserve some of the areas, and it is to be hoped we never again see groups like Save our Suburbs, because with the introduction of Rescode we have saved our suburbs and can continue to make sure that planning for the area is appropriate.

Debate interrupted pursuant to sessional orders.

The DEPUTY SPEAKER — Order! The time appointed for debate on this bill has concluded.

Motion agreed to.

Read second time.

Remaining stages

Passed remaining stages.

MINERAL RESOURCES DEVELOPMENT (FURTHER AMENDMENT) BILL

Second reading

Debate resumed from 16 October; motion of Ms GARBUTT (Minister for Environment and Conservation).

Motion agreed to.

Read second time.

Remaining stages

Passed remaining stages.

RETAIL TENANCIES REFORM (AMENDMENT) BILL

Second reading

Debate resumed from 10 October; motion of Mr HAERMEYER (Minister for Police and Emergency Services).

Motion agreed to.

Read second time.

Remaining stages

Passed remaining stages.

Remaining business postponed on motion of Mr HAMILTON (Minister for Agriculture).

ADJOURNMENT

Mr HAMILTON (Minister for Agriculture) — I move:

That the house do now adjourn.

Small business: TCFUA campaign

Ms ASHER (Brighton) — I request the Minister for Manufacturing Industry to contact the Victorian branch of the Textile Clothing and Footwear Union of Australia and demand that it stop harassing small businesses in the clothing industry. I hope the minister is aware of a disgraceful campaign being run by the union harassing small businesses. This has significant ramifications for the textile manufacturing industry.

A series of letters has been sent to small businesses by the union advising that an authorised officer will be contacting them, and I quote:

> … to conduct an inspection of your factory premises, wage and time books and other relevant records.

The union then goes on to advise small businesses that they are required at that inspection:

> … to have all records and documentation required to be kept under in —

there is an error there —

> relation to the above award clauses on the premises for the period commencing November 1, 1994.

The union is asking small businesses to make available all their records from 1 November 1994. Further, the union is also demanding the presence of a company representative who can 'clarify details that may arise from perusing such records available on that day'. This sort of campaign, which commenced in May and is still going, is outrageous! One small business that has complained to me had the union follow up, demanding and setting down a time of the union's choice. To make matters worse, the small business in question was a retail business anyway.

Nobody approves of outworker exploitation. A number of mechanisms are available to deal with this, including one piece of legislation before the federal Parliament. However, the solution — —

An honourable member interjected.

Ms ASHER — Bring it on then! The solution to this is to stop bullying small business, stop wasting the time of small business, get off the backs of small business, stop costing small business money, and start to behave in a reasonable manner.

Housing: high-rise estates

Mr WYNNE (Richmond) — I raise a matter for the urgent attention of the Minister for Housing. I am very concerned about a number of serious incidents that have occurred in recent weeks on the high-rise housing estates in the City of Yarra. As we well know, public housing estates in Collingwood, Richmond and Fitzroy are located in precincts which are associated with significant drug dealing.

I have been approached by members of resident associations, particularly Pauline Seglyn from the Richmond Tenants Association, Harold Hamilton from the Collingwood Residents Association, and Joseph Langer from the Fitzroy Residents Association. They are all representatives of public housing estates, and they are all good people who have stood by their community for many years. They are seeking the support of and action from the ministry to assist residents who are living on public housing estates.

Local police report problems with heroin dealing. We all know about the scourge of heroin dealing around the inner city of Melbourne. That involves not only drug trading but also the use of drugs around the estates and high levels of thefts from motor vehicles that are attributed to individuals seeking money to support their heroin habits.

I have seen the effect that this activity has on the feelings of safety and wellbeing of public housing residents and members of the wider community. It is important to realise that these incidents most often involve non-public housing tenants accessing the estate and committing crimes on and around them. Public tenants are more often than not the victims and not the perpetrators in these cases.

A positive sense of community can exist only in an environment where people feel secure. Between the minister and myself we cover the largest public housing high-rise estates in Melbourne, and she is very aware of these issues. I ask her to urgently take action to ensure that public housing tenants feel the level of security which they richly deserve. The opportunity to live in safety and security is a fundamental right of all people.

As members of the Bracks Labor government we need to ensure that we respond to these concerns, which have been raised by decent, long-term residents of public housing in the inner city of Melbourne who have worked tirelessly to support their communities. I ask the minister to take action to support them.

Foxes: control

Mr DELAHUNTY (Wimmera) — The matter I raise for the attention of the Minister for Environment and Conservation is about pests — and no, I am not talking about rabbits or wild dogs but about foxes, which are a menace. People in the Wimmera, in the south-west of Victoria, and in fact right across Victoria are saying that the government is not doing enough to control these pests.

On 25 July the *Weekly Times* published a letter which highlights the problem. It states:

> Foxes have been on the increase in the past few years with the extra cover provided by Landcare plantings. The preference they show for new lambs over Fox Off is well proven …

The author says that to complement the Fox Off program the Victorian Farmers Federation and others believe that more should be done by the government. The letter continues:

> I estimate lambing losses here over the last few years to foxes at 10 per cent.

The letter is from Ian Lobban from Barnawartha.

I refer to the history of foxes in Australia and to an article in the *Weekly Times* of 12 July 2000 which states:

> The European red fox was first released in Melbourne in 1855 for recreational hunting.
>
> In less than 10 years foxes had colonised 13 000 square kilometres of Victoria and today it is one of the most widely spread feral animals in Australia … except [in] Tasmania.
>
> Foxes are well known for their cunning and ability to survive in many different habitats, from arid through to alpine and even urban areas.
>
> …
>
> Foxes also prey on goat kids and may account for 30 per cent of all newborn lamb deaths. Lambs already weak from lack of food, adverse weather or poor mothering are especially prone to attack.
>
> In the past, fox control in Australia has involved bounty systems whereby payment of a bounty is made when proof of death is provided.
>
> …
>
> Commercial harvesting of foxes for their fur was once a viable industry and form of control.

In my research on this matter I read a book titled *They All Run Wild — The Story of Pests on the Land in Australia* by Eric Rolls. Quotes from the book state that the fox is a designated lamb killer and a bounty is paid for its scalp. In 1893 the Shire of Euroa — —

The DEPUTY SPEAKER — Order! The honourable member must say what action he wishes the minister to take.

Mr DELAHUNTY — I will get to that. A common form of control was spotlighting. Foxes' eyes are bright and red and are easily distinguished from sheep, which have silver-grey eyes.

The action I request of the minister is to evaluate the government's control programs and increase the options for land-holders to control these pests — not wild dogs or rabbits but foxes — by using poisons and bounties and by removing their habitat.

Croydon Nursing Home

Mr HOLDING (Springvale) — I refer the Minister for Aged Care to Croydon Nursing Home at 411 Dorset Road, Croydon. The action I seek is that the minister urgently refer the management situation of the home to the relevant federal authorities to establish whether or not patients are being placed at risk because of the care standards provided. I understand the home was granted additional beds by the federal government in January 2001 and that it is currently planning an extension. In August 2001 an inspection failed the home on 35 of the 44 separate care outcomes. It received the worst available rating of 'critical' in four of the care standards, and the independent assessment team recommended its accreditation be revoked immediately. This would effectively close the nursing home.

I have been informed that the effective operator of the Croydon Nursing Home is none other than Anaceli Botin. However, she is using one Matthew Perry and a company known as Calm List Investments as a front operation to disguise her involvement in the nursing home. There are reports of staff intimidation to prevent complaints and concerns being raised. Anaceli Botin and her family have been involved in at least one other nursing home where there were allegations of abuse, neglect of residents and financial fraud. Residents at Croydon Nursing Home report that she is there every day signing cheques, hiring and firing staff, and generally managing the facility. This raises the question of whether or not she is the effective manager, and whether or not she is the effective operator of this facility.

A report in the *Age* of 13 October revealed other massive discrepancies in the operation of this nursing home, including two-thirds of residents being physically or chemically restrained without proper records or a system for reviewing whether this was appropriate; no effective infection control plans; medicines and medical supplies that were out of date and not kept sterile; patients being given drugs without a valid order — a whole raft of serious allegations about the operation of this nursing home. Now there are serious concerns about who are the true operators and managers of this nursing home. There should be an urgent investigation to get to the bottom of this situation.

I stress that the nursing home is funded and regulated by the federal government and that urgent action is required by the federal government. I repudiate utterly the actions of the Aged Care Standards and Accreditation Agency, the independent body which was

set up by the federal government to enforce standards, overturning the decision to revoke the accreditation and instead giving the nursing home six months to sort the situation out, despite the massive concerns that the independent assessment team found, and the rating of critical on four of the key standards of operations. I call on the minister to refer this matter urgently to the relevant federal authority.

Police: prisoner accommodation

Mr WELLS (Wantirna) — I refer the Minister for Police and Emergency Services to the overcrowding of police cells and ask him to take immediate action to address these needs so we can free up our valuable police resourcing. There is no doubt the Bracks Labor government has built up a reputation of do-nothing, and this is another example where the minister has not taken any action.

Let me take one example. Last Friday and Saturday nights things were so chaotic that the Carlton police station had to be turned into a prison, which meant that a sergeant was taken off operational duties and all his attention had to go to looking after prisoners, along with other constables and senior constables. Last weekend things were so bad in the city that a city divisional van was taken off active duty and used to transport intoxicated people from the city down to Moorabbin. Things became even worse in that space was not able to be found for intoxicated people so that the divisional vans were used as a taxi service driving some of these drunks home.

The minister's excuse has been that he blames the previous Kennett government. He also said that Labor has been in government for two years — two years he has been a minister and no action has been taken. He said that the previous Kennett government shut down eight prisons. When he is responding to the needs of the police cells and what he will do about it I would like him to name the eight prisons, because to the opposition's recollection four prisons were replaced by new prisons, which actually increased the number of prison capacity beds.

This is an urgent request that the minister take immediate action to address the needs of overcrowded police cells.

Ethnic communities: refugee support

Mr LEIGHTON (Preston) — I refer the Minister assisting the Premier on Multicultural Affairs to the Islamic and Arabic communities specifically in my electorate of Preston and also generally throughout the state of Victoria.

Mr Perton interjected.

Mr LEIGHTON — Yes, I will in a moment, just give me a chance. I am calling on the minister to take action to support the Arabic-speaking and Islamic communities at this difficult and crucial time.

As the honourable member for Doncaster interjected, I acknowledge and welcome the visit of the Prime Minister yesterday to my electorate and to the Omar Bin El-Khattab mosque in Preston. A number of community representatives, including me, visited that mosque on 21 September to discuss some of the difficult issues they were facing. President Bush has been reported as visiting a mosque in the United States, so I am glad that at long last the Prime Minister was able to get round to visiting a mosque in Australia.

What is important is not just the symbolic action, but providing actual tangible support. In my electorate Iraqi refugees were welcomed to Preston by us; they were supported by the local community, by the City of Darebin, by the mosque, and by the state government with a grant of $100 000 to the local council, but there was no support from the federal government. In fact, federal agencies were specifically instructed not to provide support.

Another example I refer to is that the commonwealth government, in particular the Department of Immigration and Multicultural Affairs, was approached by the state government to provide support for a telephone hotline, and that support was not forthcoming. So from the commonwealth government all we have seen is an empty symbolic gesture, whereas the real, tangible support is coming at a state government level and also from community groups in my electorate.

I am aware of the very difficult circumstances that people in our local Islamic community are under. They have come here, often as refugees, under difficult circumstances from countries ranging from Lebanon through to Somalia.

A number of them struggle with the language in trying to get employment, and they have been put under pressure at this difficult time. As a community we have a responsibility to provide that support — —

Mr Wilson interjected.

The DEPUTY SPEAKER — Order! The honourable member for Bennettswood!

Mr LEIGHTON — All levels of government should provide support. In the absence of assistance from the commonwealth government, I call on the minister to provide support.

Eltham North Primary School

Mr PHILLIPS (Eltham) — I raise a matter for the attention of the Minister for Education concerning asbestos in classrooms in one of my primary schools in Eltham North. I have been contacted this week by the Eltham North Primary School council and concerned parents about two portables that were moved to the school within the last 12 months or so. It is alleged that they contain asbestos. The school council was told at first that these portable classrooms would be relocated or shifted and that a new portable classroom would be brought in. It has now been told that they will not be relocated and that they are relatively safe.

I wrote to the minister this week to ask that she take some action and/or give an undertaking to have these classrooms removed as a matter of urgency. At this stage I am seeking from the minister some urgent action or assurance. I am not raising this issue to create a political ferment, but I am fully aware that the school council is prepared to do whatever it takes to protect the young students.

Currently these classrooms are being occupied on a full-time basis. As we know, asbestos is very dangerous to our health and has certainly been proven to be cancer causing. The parents have indicated that any suggestion of there being a health risk to the young children is totally unacceptable. They are not prepared to put up with it, and I seek the minister's assurance that something will be done urgently.

Police: Seymour

Mr HARDMAN (Seymour) — I ask the Minister for Police and Emergency Services to take action to address community safety issues in the Seymour electorate, particularly in growth areas such as the southern part of the Shire of Mitchell, which includes the townships of Wallan, Wandong, Heathcote, Pyalong, Beveridge and Kilmore, and also in fringe areas such as Kinglake, Healesville and Whittlesea, where there is a great deal of concern about police presence.

The minister would be aware that when police service areas like Kinglake they have to travel large distances from places such as Yea and Whittlesea, and those townships are concerned that they do not have enough police resources. The townspeople in those areas are very concerned, and I would like to see something done about it.

The Kennett government knew about this for seven years, and the problem has worsened as growth in the electorate has occurred. We need to address these concerns. I welcome the target of 800 extra police officers that the minister has done so well in implementing — and there was an announcement today about 560 new police officers, which was great to hear. I would like some of them to be employed in my electorate, where resources are needed on the ground. I also welcome the $90 million program to improve police stations in Victoria. There is a great need for some of that money to be spent within the Seymour electorate.

It is interesting that in the last two years the federal Liberal member for McEwen has suddenly become concerned about community safety in the area. It is quite amazing. As the minister knows, I have been working very hard since before the last state election to try to secure some resources for the Seymour electorate, and I have made many representations, both oral and written, since that time. These areas deserve the extra resources that the Bracks government is putting into community safety.

I am fully aware that the previous devastation of police numbers and resources in Victoria will take a long time to build. As we know, it is easy to knock over a house, but it takes a lot longer to clean up the mess and build a new one. It is easy to slash and burn, but it is harder to do what our government is trying to do — that is, rebuild and get things going. I ask that the minister do something as quickly as possible to address the issues that are arising in the Seymour electorate.

Geelong hospital

Mr PATERSON (South Barwon) — I call on the part-time Minister for Health to take urgent action to fix the spiralling waiting list turmoil at the Geelong hospital. Information given to the Liberal Party shows that one in three elective surgery cases at the hospital is being cancelled because of the Bracks Labor government's failure to resolve a growing problem with the availability of anaesthetists.

A Timboon woman who has multiple tumours had her surgery cancelled, causing enormous anguish for her and her family. A 78-year-old Lara woman, Beatha Wilson, is suffering severe back pain and cannot even get a surgery date. Two spurs on her vertebrae are crushing the nerve, leaving her without feeling in her legs. Sadly her elderly husband is undergoing

chemotherapy for bowel cancer, and Mrs Wilson also has to look after him.

The Bracks Labor government is failing the region's sick and elderly, which was starkly revealed in the June quarter *Hospital Services Report*. The number of Geelong hospital patients waiting on trolleys for more than 12 hours in emergency has rocketed 157 per cent since the previous quarter, and it is 15 per cent higher on a year-on-year comparison from June 2000 to June 2001. This compares with the June 1999 quarter under the Liberal government, when just one patient waited longer than 12 hours. Victoria has a part-time health minister who spends half his day on the planning portfolio, and there is no more stark an example than the damning Geelong hospital figures.

I feel great sympathy for the staff at the Geelong hospital, who are battling against the odds with a government which claimed it would fix the health system. Under Labor our hospitals have gone backwards. The Bracks Labor government has overseen the deterioration of the health system, despite its deceitful rhetoric at the last election. This latest round of surgery cancellations and blow-outs is an indictment of the ALP.

Geelong: Corio doctors

Mr LONEY (Geelong North) — I raise for the attention of the outstanding Minister for Health an issue of significant concern in my community. I refer to a report of the last few days revealing that the Geelong suburb of Corio has one of the worst resident-to-doctor ratios of any area in Australia. It is now down to one doctor for every 3000 people.

An honourable member interjected.

Mr LONEY — I appreciate that members on the other side do not like to hear about these things.

Mr Perton interjected.

Mr LONEY — We will get to that in a moment. It is an important issue for people in my area, and the honourable member for Doncaster's trivialising of it is not appreciated — and my constituents do not appreciate it either. We have a significant lack of doctors in the area.

Dr Mark Kennedy, who practises in the area, has told the *Geelong Advertiser* that Corio was buckling under the strain of the drastic and worsening doctor shortage. He said:

> … ratios in the Corio region were three times more than the ideal rate of 1000 to 1.
>
> …
>
> 'The neediest area in Geelong is definitely Corio', Dr Kennedy said. 'It's the worst it's ever been'.

He went on to say that based on the commonwealth ratios at least five doctors are needed urgently in the area to bring it up to the required figure.

Dr Kennedy, who is backed by the Australian Medical Association (AMA) in this, goes on to say:

> … the Corio area should be classified as one of special needs, as has occurred in remote rural areas, in a bid to attract more doctors.

The designation of special needs is done by the commonwealth government, so it needs to be done there. I ask the Minister for Health to take urgent action to make representations to the commonwealth to have Corio declared an area of special need.

Honourable members interjecting.

Mr LONEY — I note that the honourable members for South Barwon and Doncaster are opposed to this.

The DEPUTY SPEAKER — Order! The honourable member's time has expired.

Macedonian Teachers Association of Victoria

Mr KOTSIRAS (Bulleen) — I ask the Premier in his capacity as the Minister for Multicultural Affairs to investigate the level of involvement by the minister assisting him in multicultural affairs to convince Mr Chris Sidoti of the Human Rights Commission between 25 May and 8 September 2000 not to accept the agreement that was reached between the Macedonian Teachers Association of Victoria (MTAV) and the government, which was to withdraw the phrase 'to issue an apology and to pay costs'.

I have raised this matter before but I have received new information which I would like to raise with the Premier. On 26 July 2000 an article appeared in the *Herald Sun* which stated that key points in the offer included an apology, assistance and $5000. The article went on to say:

> The government last night said the draft offer was a working document and had no status.

On 7 June the Minister assisting the Premier on Multicultural Affairs said in this house that 'there were no deals'. The Premier said on 18 September:

> No agreement for an apology or a contribution towards the MTAV costs of proceedings was made.

Again in a letter to me dated 27 August he said:

> No agreement for an apology or a contribution towards the MTAV costs of proceedings was made.

However, I have received a document outlining the four points of agreement between the government and the MTAV showing an apology from the Premier, payment of $5000 and an agreement that the Victorian government will not oppose the association on human rights and will formally withdraw the directive.

In light of this I would hate to think that the minister and the Premier have misled the house. I would like the Premier to investigate the pre-involvement of the minister to ensure that he had no influence over Chris Sidoti in negating the agreement, because that would be an unprecedented step. I also hope there was no involvement by the government at all.

When I raised the issue last time the minister was in the house. He got very upset and made it clear that there was no deal between the MTAV and the government. That was reinforced further on two occasions by the Premier. Either the minister is not telling the truth and is misleading the house — —

Mr Maxfield interjected.

The DEPUTY SPEAKER — Order! The honourable member for Narracan!

Mr KOTSIRAS — I would like the Premier and the Minister assisting the Premier on Multicultural Affairs to come in and tell the house whether he was aware of the deal, whether there was an agreement and whether he told Chris not to go ahead with it because of the embarrassment that would be caused by the criticism the minister was getting in the Greek media. It is appalling, and I hope the Premier investigates and is able to come into the house — —

The DEPUTY SPEAKER — Order! The honourable member's time has expired. The honourable member for Glen Waverley has 8 seconds!

Marriage celebrants

Mr SMITH (Glen Waverley) — I ask the Attorney-General to consider authorising civil marriage celebrants to sign statutory declarations.

The DEPUTY SPEAKER — Order! the honourable member's time has expired.

Responses

Mr HULLS (Attorney-General) — Firstly, on the issue raised by the honourable member for Brighton about outworkers and the Textile, Clothing and Footwear Union of Australia (TCFUA), the Bracks government is absolutely committed to ending exploitation of outworkers. This objective should be shared by all members of this community, including those sitting opposite. Having met on many occasions with Michele O'Neill from the TCFUA — I do not know whether the honourable member has taken the opportunity to meet with the union — I know that Michele also shares that passion to end exploitation of outworkers.

Unfortunately it seems that over a period of time outworkers have been a 10th-order issue for the Liberal Party. I also understand that recently a report about outworkers has been published by the Institute of Public Affairs. That report seems to be suggesting that protection ought be removed from outworkers, and that is totally inappropriate. There is no doubt that in Victoria we could create a large number of jobs if we were all prepared to work for $1 an hour. I do not see any members of the Liberal Party or their children volunteering to work for those outrageous rates and in inappropriate circumstances. Those who support the current deplorable conditions that exist in relation to outworkers are sadly out of step with the government, with the churches, with unions and with a whole range of community groups.

It is absolutely crucial that the issue of outworkers be taken out of politics and that all members of the community rally to oppose the exploitation of outworkers. I am sure the honourable member would agree that every rational analysis of manufacturing in Australia and in Victoria makes it quite clear that our future should be in high-tech and high value-adding jobs and that low-skilled, low-wage jobs are the path to economic stagnation. The government is certainly determined not to follow that particular path. I will continue to have passion, as I am sure Michele O'Neil will, to end the exploitation of outworkers.

I am not sure what issue the honourable member for Glen Waverley wanted to raise. I heard only the words 'civil celebrant'. I do not know whether he wants to become a civil celebrant or he has a problem with some civil celebrant or he wants to use the services of a civil celebrant.

The honourable member for Glen Waverley has just handed me a piece of paper, which I will read and on which I will reply to him in due course. Unfortunately

in his 8 seconds he was not able to raise the issue he sought to raise. I heard only the words 'civil celebrant', but I will read the letter.

Ms PIKE (Minister for Housing) — I thank the honourable member for Richmond for raising with me the need for additional security and support for residents in high-rise estates in his community. Honourable members know that the honourable member for Richmond has a strong, ongoing commitment to the housing needs of his constituents.

The government wants to build communities that will continue to improve the safety of our public housing tenants. The government wants to work very closely with the tenants to ensure that we make their own environments more secure. As honourable members know and as the honourable member for Richmond pointed out, often tenants are the victims of crime rather than being the perpetrators of crime and are made to feel insecure. Unfortunately sometimes the media raises issues about crime on high-rise estates and there could be a public perception that the residents are perpetrating such crime. That stigmatising of public housing residents is most unfortunate.

We need to be very innovative and creative in the way we tackle crime, and we must be prepared to try a whole range of strategies to deal with antisocial behaviour in and around the inner city housing estates. I am acutely aware of some incidents in the Collingwood, Richmond and Fitzroy public housing estates. I have authorised a number of initiatives to begin to deal with the issues.

Firstly, as of 12 o'clock today the Office of Housing has stationed two additional security personnel in each of the four high-rise buildings in Fitzroy. Those personnel will be present for 8 hours a day, 7 days a week, for the next 3 months. Secondly, all visitors to the Fitzroy building must report to security and provide details of who and where they are visiting. Thirdly, the $1.5 million stage 1 of the Fitzroy estate security upgrade will commence in February next year and will incorporate improved surveillance equipment, building access control by the use of proximity cards, enhanced lighting alarms and other initiatives. This is something new.

At the Collingwood estate we are going to trial a concierge system, the first for Victoria. It has been trialled very successfully overseas and will commence here in February 2002. We are also initiating a program of intensive tenancy management, involving new local allocations policies, tower-based estate managers and a specialist officer to provide an immediate response to antisocial behaviour.

We have had a very successful tenancy verification project under way in Fitzroy. That has resulted in the eviction of 50 illegal households in that community. My department has been working very closely with the department of the Minister for Police and Emergency Services on the matter, in a cooperative effort between the two of us.

At the Richmond estate a controlled access system has been installed. The tower at 112 Elizabeth Street was operational on 1 October and we will be activating more of those at weekly intervals over the next month. A further tenancy verification project was begun on 5 October in Richmond. As I have said, negotiations have commenced with Victoria Police and the North Richmond Community Health Centre aimed at stationing plain clothes police officers at the centre to assist tenants and respond to concerns. As you can see, the government is a long way down the track of a number of very creative initiatives to make a difference to this issue of security in the high-rise estates.

The honourable member for Springvale raised a very serious concern with me regarding a nursing home, and I thank him for doing so. The house will know that since 1980 the federal government has assumed responsibility for the regulation, monitoring of standards, and funding and licensing of nursing homes. It was the Howard government that established the Aged Care Standards and Accreditation Agency, which has the responsibility of going right around Australia and assessing care standards in nursing homes and hostels. Its activities have been very well documented. This is a very public and visible issue and one that Australian citizens are very concerned about.

In partnership with that process the commonwealth Department of Health and Aged Care, under the supervision of the federal Minister for Aged Care, allocates licences and then provides funding to organisations that meet care standards. Obviously I am very concerned when matters are raised about the welfare of elderly Victorian citizens, and I will arrange for referral of the honourable member's concerns to the responsible federal agencies and to the federal minister and seek urgent and appropriate follow up.

Mr HAERMEYER (Minister for Police and Emergency Services) — The honourable member for Wantirna again raised the issue of the overcrowding of police cells. Firstly, I indicate that his flurry of interest in this issue is very recent. It is a problem that has built up over many years while the previous government

neglected to address the problem of growing numbers in our prisons and of providing enough cells and beds in the prison system to do something about it. Yet the honourable member for Wantirna sat on this side of the house and had absolutely nothing to say about it.

He said that on last Friday and Saturday nights the Carlton police station was turned into a prison. I heard him say this on radio the other day, so I took the time to get the facts from Victoria Police. What they indicated was that there was no-one in the police cells at Carlton on Friday or Saturday nights — absolutely no-one!

Mr Wells — Why did they deem it a police prison?

The DEPUTY SPEAKER — Order! The honourable member for Wantirna has made his contribution.

Mr HAERMEYER — He asks why the police deem it a police prison. They don't. Victoria Police deems it a police jail, and any police cell is deemed a police jail. There was no-one in there on Friday or Saturday night. On Sunday night there was one drunk in there for a couple of hours.

Mr Delahunty — Name him!

Mr HAERMEYER — I am tempted to but I won't.

That is actually what police cells are for. The last time there was anyone housed in that cell was when the police had had a bit of an operation going on some of the licensed venues around the central business district and the Carlton area — there is a lot of activity in the nightclubs and entertainment venues, particularly on the weekend. During the previous weekend there were four drunks held in the Carlton police cells for a short period of time, which is hardly what you might call turning it into a prison.

Like other members of the opposition, whenever the honourable member for Wantirna hears anything about this state heading in the right direction he goes out and buys razor blades.

Ms Asher — You've run that line before.

Mr HAERMEYER — Yes, I know. The reality is that the number of people in police cells as of 7 o'clock yesterday morning — and these were the last figures that I have had access to — is down to 208. The figures have been coming down progressively from over 300 because this government is putting new cells in place. We are building new cells and they are coming online progressively. We are building four new prisons to overcome the problem that the previous government created. Very shortly we will have another 50-bed unit coming online at Ararat that will drop that number even further. So the honourable member is clutching at straws trying to draw attention to the vandalism that he was a part of.

We can reduce the numbers in the police cells by another 80, and we can do it almost immediately — that is, if the honourable members opposite tell their prehistoric colleagues over in Jurassic Park to support the home detention legislation.

Instead of coming in here with these mealy-mouthed mumblings I would suggest that the honourable member for Wantirna actually has a look at the causes of the problem. If he really wants to empty out the police cells, short of throwing open the gates — —

An honourable member interjected.

Mr HAERMEYER — No, that's what you're suggesting. I suggest you talk to his colleagues over in Jurassic Park and get them to support the home detention legislation.

Because he runs around and calls the Carlton police station a police prison because there is a drunk in there for 2 hours on a Sunday night, the honourable member's credibility is in tatters.

The honourable member for Seymour raises the issue — —

Mr Wells — On a point of order, Madam Deputy Speaker, in regard to relevance, there was the other part of my adjournment debate item where I wanted the minister to name the eight prisons that the Kennett government shut down between 1992 and 1999.

The DEPUTY SPEAKER — Order! The Chair does not have the authority to direct ministers on the way they respond to matters raised during the adjournment debate.

Mr HAERMEYER — He may want to close down prisons as his government did, but we will not do it.

Honourable members interjecting.

The DEPUTY SPEAKER — Order! It has been a long week. I ask honourable members to assist the Chair.

Mr HAERMEYER — I commend the honourable member for Seymour. My office regards him as a persistent pest.

Mr Hulls — You regard everybody that way!

Mr HAERMEYER — Exactly! But he is representing his electorate well. He is ringing up my office daily and frequently asking in the house for things to be done — for example, about police stations and emergency services in his electorate. He is getting results.

You only have to look at the $4.5 million, 24-hour police station going into Kilmore. The previous government built a new police station in Kilmore, but it was a 16-hour station despite the fact it had the results of a strategic facilities review saying that Kilmore should have a 24-hour station. The former government short-changed Kilmore.

The honourable member for Seymour would not allow that short-changing to take place, and he has now secured for Seymour a new $4.5 million, 24-hour police station on top of a new $7 million, 24-hour police station at Seymour, which was oft promised but never delivered by the former government, as well as new police stations in Broadford, Yea and Kinglake. For all his effort the honourable member for Seymour gets results.

Recently I received a progress report from the federal member for McEwen, Fran Bailey, who says she has been working to secure a greater police presence to make the community safer for teenagers travelling to school and weekend activities, for families with young children and for older people living alone. Apart from making a variety of other misleading claims in the document, she has been out there saying she is working for a 24-hour police station in Wallan. Unlike the honourable member for Seymour, Fran Bailey has not once contacted my office about a police station in Wallan.

I looked through the files at the Department of Justice to see how many times the honourable member for McEwen had contacted the minister's office when the former government was cutting police numbers. How often did she write to protest about that serious deterioration in resources? Not once — there was not a single letter!

The federal member for McEwen is a good self-promoter, and there is nothing wrong with that. But you need to have done the things you are claiming to have done, and she has not done them! She is misleading the electorate. These are absolutely fraudulent claims, and only if she were anything like the honourable member for Seymour would she be able to make the claims he makes.

When the previous government was in power people used to come up to me and say they had been to see the honourable member for McEwen about cuts to existing police stations and the need for new stations and so on, but she would say, 'That is a state responsibility, I have nothing to do with that'. Suddenly she does not want to talk about the GST but claims she has done things about state issues — but she has done nothing. She should take a leaf out of the book of the honourable member for Seymour.

Honourable members interjecting.

The DEPUTY SPEAKER — Order! I ask the house to come to order.

Mr HULLS (Attorney-General) — The honourable member for Wimmera spoke about foxes, as I recall it, in raising the issue of pests. I will bring that matter to the attention of the Minister for Environment and Conservation.

The honourable member for Preston raised an issue for the Minister assisting the Premier on Multicultural Affairs about the Islamic and Arabic-speaking communities. I will direct that to the relevant minister.

The honourable member for Eltham raised an issue for the Minister for Education about asbestos in a classroom at Eltham North. I will direct that issue to the minister.

The honourable member for South Barwon raised an issue about the Geelong hospital that was also raised during question time today. The opposition took a thrashing during question time, and I expect the response from the Minister for Health will again be embarrassing for the honourable member. I will refer it to the minister.

The honourable member for Geelong North raised an issue for the Minister for Health about reported figures at Corio and the doctor-resident ratio. I will direct that to the Minister for Health.

The honourable member for Bulleen raised an issue for the Premier about Mr Chris Sidoti, a person of the highest calibre whom I met some time ago. In any event, I will raise that matter with the Premier.

Mrs Peulich — On a point of order, Madam Deputy Speaker, I request you to ask Mr Speaker to investigate some material that was handed only a few minutes ago to the honourable member for Bennettswood by the honourable member for Mildura. The material has been pre-planned; I am not sure who is responsible for it.

Certainly I ask you to have the Speaker investigate who is responsible for its preparation and distribution.

Given the sensitivity that the honourable member for Gippsland West showed earlier today to the issues that dominate our media, I am raising this matter because this material makes light of anthrax, which is a serious concern in the community and among people in my electorate. I am sure all honourable members have had similar concerns expressed to them. This material was designed to victimise and target the honourable member for Mordialloc.

Honourable members interjecting.

The DEPUTY SPEAKER — Order! This is a serious matter. I ask the honourable member for Narracan to desist.

Mrs Peulich — My concern is that this is at least the second piece of similar material that I have become aware of in the past seven days. At the same time last week a similar piece of material on another matter, which I did not feel was particularly tasteful to raise with the Speaker at the time, was circulated before my eyes. It not only attempted to target and victimise the honourable member for Mordialloc, who no doubt certain people would like to shut up because of his vigorous performance in targeting certain members of the house, it also targeted his wife.

This material breaches all boundaries of good taste and acceptable humour. I am particularly disappointed that the honourable member for Mildura, who ordinarily presents himself as a defender of parliamentary standards, has some complicity in the circulation of this material, which I consider to be defamatory and an unfair targeting of the honourable member for Mordialloc.

I expect the Speaker should investigate this matter to ascertain who is responsible not only for the ongoing victimisation of the honourable member for Mordialloc but also for preparing and circulating such a distasteful piece of material that offends all community standards, especially given the serious level of community concern about anthrax.

I note certain honourable members are laughing. It is not funny. Given the response we saw from certain quarters in relation to the matter raised by the honourable member for Gippsland West, this exceeds, by comparison, the incident where the house saw the honourable member for Mordialloc use a forefinger to emphasise a political point. This material is offensive, and I ask you, Madam Deputy Speaker, to ask the Speaker to investigate and take the appropriate action.

Mr Hulls — On the point of order, Madam Deputy Speaker, this is nothing more than a political stunt on the part of the honourable member for Bentleigh. The honourable member for Mordialloc has had a tough week, and for the honourable member to be talking about the honourable member for Mordialloc in terms of his being a target and being victimised as a result of what has occurred in recent times is nothing more than an attempt to support the outrageous behaviour that has taken place and been reported widely in the media and on radio today.

I ask you to rule that there is no point of order and treat this matter with the contempt that it deserves.

The DEPUTY SPEAKER — Order! I do not uphold the point of order. However, regardless of the circumstances, if a member asks me to refer something to the Speaker I must do so, and the Speaker will make a decision in relation to it. I shall inform the Speaker of both the matter raised by the honourable member for Bentleigh and the comments of the Attorney-General.

Motion agreed to.

House adjourned 5.00 p.m. until Tuesday, 30 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 Assembly.
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, 16 October 2001

Aged Care: state beds pool

407. MRS SHARDEY — To ask the Honourable the Minister for Aged Care with reference to the state beds pool —

1. How many state-owned residential aged care beds were off-line in the pool when the Government came to power.

2. When was the first written proposal put to the Federal Government for the allocation of these beds.

3. What are the documented details of this proposal.

4. How many of these beds did the Commonwealth agree to reallocate.

5. Has the Government provided a further proposal to the Commonwealth in relation to the state bed pool; if so what are the details of the proposal.

ANSWER:

(1) 213

(2) The first written proposal was provided by the Federal Government.

A copy of the correspondence from the Federal Minister for Aged Care to the then Victorian Minister for Health and Aged Care will be provided to the Honourable Member.

(3) & (4) Not applicable

(5) A copy of the proposal will be provided to the Honourable Member.

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Wednesday, 17 October 2001

Police and Emergency Services: Belmont robbery

426. MR PATERSON — To ask the Honourable the Minister for Police and Emergency Services — why was there only one police vehicle rostered and available in Geelong to attend a robbery in progress on 30 May 2001 at approximately 5.00 a.m. in Belmont.

ANSWER:

I understand that this matter has been investigated by Superintendent Macievic, Acting Commander of General Policing Headquarters, Geelong (Region 2), who advises the following:

On 30 May 2001, two divisional vans were rostered and working on night shift from Geelong Police Station. Both units commenced duties between 10.00 p.m. on 29 May 2001 and 8.00 a.m. on 30 May 2001. In addition, a Geelong Supervision Unit, containing a Sergeant was also working on the same shift.

In regard to the issue of the availability of these vehicles at approximately 5.00 a.m. in Belmont, Victoria Police reports indicate that the Geelong Supervision Unit was assisting one of the units occupied with processing offenders at Geelong Police Station, who at that time, had been apprehended for a theft at a car wash on Bellarine Highway, Newcomb.

At approximately 4.56 a.m., the second unit received a call to attend Betta Electrical (142–146 High St, Belmont) regarding a *burglary*, not a robbery-in-progress. On arrival, the unit observed a smashed glass door. The unit remained at the store for the owner to arrive, prepared crime reports and surveyed the area for witnesses.

On the overall issue of police presence, I would like also to point out that the government is committed to providing 800 additional police on the front line to replace those deliberately cut by the previous Liberal–National Party Government. We are now more than half way towards that target. As these additional police come on line, police presence and response capacity will continue to improve.

Police and Emergency Services: police strength

428. MR WELLS — To ask the Honourable the Minister for Police and Emergency Services — (a) what was the effective number of sworn full-time police, exclusive of police recruits in training, employed as at 30 June 2001; and (b) what was the number of police recruits in training as at 30 June 2001.

ANSWER:

I am advised by Victoria Police that:

(a) The full-time equivalent number of sworn police employed at 30 June 2001 was 9616.

(b) The number of police recruits in training as at 30 June 2001 was 375.

Police and Emergency Services: drug-driving offences

444. MR WELLS — To ask the Honourable the Minister for Police and Emergency Services with reference to testing of drivers for driving under the influence of drugs between 1 July 2000 and 30 June 2001 —

1. How many offenders have been detected and charged.

2. How many drivers were detected and charged in metropolitan Melbourne.

3. How many drivers were detected and charged in rural Victoria.

4. How many drivers have been convicted.

ANSWER:

I am informed that:

The amendments to the Road Safety Act that permitted police to detect and charge drug impaired drivers came into force on 1 December 2000. It is therefore not possible to give details of the number of drug impaired drivers processed prior to that date.

The provisions have been in place for a little over nine months and they are proving to be an asset to police in combating road trauma on Victorian roads. The following statistics relate to this legislation:

– the period December 2000 to 31 August 2001, 139 offenders have been detected and charged with offences under the new provisions;

– an additional 5 drivers have been referred for a driver licence review on medical grounds;

– of the 139 offenders charged, 118 were detected in metropolitan Melbourne and 21 were detected in rural Victoria;

– 17 of the 139 offenders have been convicted by courts;

– 122 offenders are within the prosecution system.

Transport: traffic management

471. MR LEIGH — To ask the Honourable the Minister for Transport — what are the details of any plans to improve traffic management in — (a) Collins Street in the Melbourne central business district; (b) Victoria Street, Richmond; (c) Kew Junction; and (d) High Street and Cotham Road, Kew.

ANSWER:

(a) The Government is constructing the extension of Collins Street to the west across Spencer Street and the railway station as part of access arrangements for the Docklands development.

(b) Traffic management plans associated with the Victoria Gardens development in Victoria Street, Richmond, are currently being reviewed.

(c) A new sign is being installed at Kew Junction to more clearly define allowable turning movements.

(d) Traffic management in the streets referred to by the Member for Mordialloc will also be considered during the development of options for improving tram operations along Tram Route 109 between Port Melbourne and Mont Alber