

**PARLIAMENT OF VICTORIA**

**PARLIAMENTARY DEBATES  
(HANSARD)**

**LEGISLATIVE COUNCIL**

**FIFTY-FOURTH PARLIAMENT**

**FIRST SESSION**

**7 May 2002**

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The Hon. C. A. FURLETTI from 13 September 2001

The Hon. BILL FORWOOD to 13 September 2001

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The Hon. P. R. HALL from 20 March 2001

The Hon. R. M. HALLAM to 20 March 2001

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The Hon. E. J. POWELL from 20 March 2001

The Hon. P. R. HALL to 20 March 2001

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Hadden, Hon. Dianne Gladys	Ballarat	ALP	Thomson, Hon. Marsha Rose	Melbourne North	ALP



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**Tuesday, 7 May 2002**

The **DEPUTY PRESIDENT** (Hon. B. W. Bishop) took the chair at 2.02 p.m. and read the prayer.

### ABSENCE OF PRESIDENT

The **DEPUTY PRESIDENT** — Order! For the information of the house I report that the President is indisposed due to a heavy cold and will not be with us today, but I expect him to be back in the chair tomorrow.

### HER MAJESTY QUEEN ELIZABETH THE QUEEN MOTHER

Message read advising that the Governor had transmitted to the Governor-General for presentation to Her Majesty the Queen joint condolence motion passed by both houses of the Parliament on death of Her Majesty Queen Elizabeth the Queen Mother.

### ROYAL ASSENT

Message read advising royal assent to:

30 April

Jewish Care (Victoria) Act  
Melbourne City Link (Further Miscellaneous Amendments) Act

7 May

Health Practitioner Acts (Further Amendments) Act

### QUESTIONS WITHOUT NOTICE

#### Workcover: premiums

**Hon. W. I. SMITH** (Silvan) — I ask the Minister for Small Business why the Bracks government has frozen Workcover premiums instead of reducing premiums for small businesses.

**Hon. M. R. THOMSON** (Minister for Small Business) — I am not the Minister for Workcover and do not have responsibility for the setting of Workcover premiums. However, Mr Deputy President, I can tell you that businesses are welcoming the stabilisation of the Workcover rate. They are welcoming, given what is happening with other insurance products, finding that their Workcover rate has in fact been stabilised for those businesses that pay under \$1 million in wages. Therefore this has been a welcome outcome out of

Building Tomorrow's Businesses Today, which does see a stabilisation of the rate at 2.22 per cent.

#### *Supplementary question*

**Hon. W. I. SMITH** (Silvan) — I think the minister will be aware that one of the biggest taxes on jobs in Victoria and one of the biggest complaints from small business in Victoria is Workcover and Workcover premiums. Last year and the year before they were frozen because the year before that the increase in Workcover premiums was so high that small businesses are still complaining today. I ask the minister: does she really think that the small businesses in Victoria are conned by her just freezing the Workcover premiums and not tackling the hard task of actually reducing Workcover premiums?

**Hon. M. R. THOMSON** (Minister for Small Business) — Small businesses know that Workcover is an insurance product, not a tax. They welcome over \$1 billion worth of business tax cuts that will be coming to businesses in Victoria with both this package and the Better Business Taxes package that was announced last year. They know they are paying fewer taxes; they know that they have far fewer taxes to pay. This business package has been welcomed by the business community, welcomed by the small businesses I have spoken to, and welcomed by the business organisations.

#### Freeza program

**Hon. JENNY MIKAKOS** (Jika Jika) — On Friday the Minister for Youth Affairs announced that the government would for the first time provide recurrent funding for the Freeza youth program. Could the minister please advise the house of the benefits to Victorian young people of this funding announcement?

**Hon. Bill Forwood** — On a point of order, Mr Deputy President, I suggest that this is a matter of public record. The minister put out a press release last Friday which is available on the Net with a lot of detail, and people can if they so wish go to it. I submit to you that this question should be ruled out of order.

**Hon. M. M. Gould** — Further on the point of order, Mr Deputy President, the honourable member asked me for further details of the announcement I made last week. I propose to give the house more details, given the opportunity.

The **DEPUTY PRESIDENT** — Order! I do not uphold the point of order. We will listen with interest to the Leader of the House as she may give further information.

**Hon. M. M. GOULD** (Minister for Youth Affairs) — As honourable members will be aware, the whole question of the Freeza program has been raised in this house on a number of occasions. The previous minister, the Honourable Justin Madden, had done a lot of work on Freeza.

The Freeza program provides money to local communities to organise drug and alcohol-free events for young people, and these events are usually band gigs or dance parties which are organised by a committee of young people. Last year more than 2000 young people were involved in over 60 local committees which received Freeza funding. Those committees staged more than 420 events across Victoria and more than 93 000 young Victorians attended those events.

As I said, this occurred across the state, and a lot of young people in regional and rural Victoria were able to benefit from it. A wide range of young Victorians received support and entertainment from the Freeza program. The obvious benefit of Freeza is that it provides safe drug and alcohol-free entertainment for young people, which is particularly important in both suburban and rural areas where not many options are available for under-age young people to attend events.

Freeza events are important for building stronger communities and they provide a focus for young people, their parents, teachers and others to work together to create positive community events and a positive environment. The people who probably get the most benefit from the Freeza program are the young people who organise the events. They learn a range of skills and often find they are doing something that interests them rather than becoming bored quickly. The Freeza program makes them enthusiastic and gets them involved in the community.

I am pleased to advise the house that for the first time the funding for this program will be committed on a recurrent basis. When the opposition was in government the funding was one off, year by year. This is a recurrent process and the funding arrangement is the highest level at which Freeza has ever been funded, which is \$2 million per year. This funding will secure the Freeza program and will give the opportunity to continue the great work and provide even more events and benefits for young people into the future.

The funding shows that the Bracks government is there for young people and that it is providing new opportunities, delivering a brighter future and building stronger communities with this program.

### Payroll tax: small business

**Hon. G. K. RICH-PHILLIPS** (Eumemmerring) — I ask the Minister for Small Business how many businesses will no longer pay payroll tax as a result of the change in the payroll tax threshold?

**Hon. M. R. THOMSON** (Minister for Small Business) — I am very happy to talk about payroll tax. Payroll tax was 5.75 per cent when the Bracks government came into office. Through announcements made by the Treasurer both last year out of the Better Business Taxes package and this year out of the Building Tomorrow's Businesses Today package, that rate will go from 5.75 per cent down to 5.25 per cent. The threshold will be raised from \$515 000 to \$550 000. This means that any businesses that pay payroll tax will be the beneficiaries of the announcement.

**Hon. G. K. Rich-Phillips** — On a point of order, Mr Deputy President, the question related to the number of businesses that would benefit from the change to the payroll tax threshold, and the minister has not addressed that matter.

**The DEPUTY PRESIDENT** — Order! The question, as I understand it, was quite specific and that was the number of businesses affected. But the Minister for Small Business has not concluded her answer, and I invite her to do so.

**Hon. M. R. THOMSON** — What I did say was any businesses that fall within the payroll tax net will be the beneficiaries of this package.

### *Supplementary question*

**Hon. G. K. RICH-PHILLIPS** (Eumemmerring) — Perhaps I can help the Minister for Small Business out because she clearly does not know her own government's package. I refer her to page 11 of the *Building Tomorrow's Businesses Today* statement where it says that 300 small businesses will benefit from the increase in the payroll tax threshold.

Perhaps the minister should be better acquainted with her government's policy. Is it not a fact that, given that only 300 businesses will benefit from this change in the threshold, and by the minister's own statement there are 280 000 small businesses in Victoria, only one-tenth of 1 per cent of Victorian small businesses will benefit from this change in the payroll tax threshold?

**Hon. M. R. THOMSON** (Minister for Small Business) — Small businesses care about the payroll tax threshold and the rate. They are pleased with what

the government has done on payroll tax. The vast majority of small businesses do not pay payroll tax. If this means they can employ one more person, that is a good thing. This is a payroll tax package that benefits all businesses that pay payroll tax. All these businesses are the beneficiaries.

I remind the house that the package has the endorsement of all business organisations. It is a great move for businesses in this state, and Victoria is well within —

**The DEPUTY PRESIDENT** — Order! The minister's time has expired.

### **Skilled Stadium, Geelong**

**Hon. E. C. CARBINES** (Geelong) — I refer my question to the Minister for Sport and Recreation. In light of the minister's commitment to improving Victoria's ability to host major sporting events, what steps has he taken to improve infrastructure which is critical to achieving this objective?

**Hon. J. M. MADDEN** (Minister for Sport and Recreation) — I thank the honourable member for asking the question, because last Friday I was pleased to visit Skilled Stadium at Geelong. While in my former life I may have been on the receiving end at that stadium, I was pleased that on this occasion it was good news for not only Geelong but for the government. I congratulate the Honourable Elaine Carbines, as well as the honourable members for Geelong and Geelong North from the other place, because they have been lobbying the government hard in relation to Skilled Stadium and the prospect of funding its redevelopment.

Through their good work I was fortunate enough last Friday to be able to announce a funding study into their proposal. One can understand why funding of such a study is so important. The Geelong Football Club is proposing that the eastern terrace be developed as a grandstand to include a 700-seat banquet/conference facility and new entry pavilions, as well as the creation of a Geelong sports house complex, a new public address system and an electronic scoreboard.

This is significant infrastructure, and the government is pleased to announce that it is funding a study, jointly managed with the City of Greater Geelong, into the proposed business case to assess the socioeconomic impact of the project as well as investigating the project delivery and future operational and management requirements. That is important. While the opposition is happy to jump up and down about the issue, the operational and management arrangements are important. This reflects the difference between what the

opposition did and what the government did. When the opposition had a good idea, if it had any inspiration, it never looked at the operational or management arrangements of any of those good ideas.

The government has been responsible. We have ensured and will continue to ensure that the operational and management requirements are paramount. This reinforces the opportunity for the Geelong community and the greater Geelong region to be well placed to host major events in the future. This reflects the government's ability to grow the whole of the state.

I was very heartened by the enthusiasm with which this concept has been embraced by the local community. It shows that we are a government governing for all Victorians, and no doubt that will be reinforced later today. But it also reflects the way in which we are prepared to do the leg work, whereas we know the opposition is a bit of a shemozzle. They are divided, they stand for nothing and they do not care!

### **Schools: safety and security**

**Hon. P. R. HALL** (Gippsland) — I refer the Minister for Education Services to circular 69 of 2002 which informs school principals of the requirement to have all electrical appliances at schools inspected and tested for safety purposes. Given that most schools have literally hundreds of electrical appliances and that electrical inspections typically cost between \$15 to \$30 per appliance, will today's budget provide specific funding to schools to cover the cost of this new requirement that is being imposed upon them?

**Hon. M. M. GOULD** (Minister for Education Services) — The government has reached agreement with all school principals about global budgets. Those global budgets allow for all the running costs of the schools and give principals the independence that they require to manage those schools. In the course of that the schools are required to ensure that safety precautions are taken in schools to protect our young children. Those requirements include not only inspecting electrical appliances but also checking basketball rings and a number of other facilities within the schools. These are the requirements the department puts on schools and it funds schools to do that under their global budgets. That is the process which will be followed in this matter.

### *Supplementary question*

**Hon. P. R. HALL** (Gippsland) — I seek clarification of the minister's answer in respect to this. I specifically asked the minister whether this new requirement, which was imposed upon schools in a

circular distributed in March this year, will be provided for in school global budgets or whether additional funds will be provided for this additional financial and administrative burden that is being placed upon schools?

**Hon. M. M. GOULD** (Minister for Education Services) — I refer to my previous answer where I said the global budgets agreements were reached with principals and they allow the schools to be managed in an independent way. As I indicated, the budgets allow them to not only look at security of other appliances but also to look at security within schools — security systems in schools — and other things, for example, basketball rings. That funding is in the global budgets and principals are responsible for managing the global budgets and meeting all the requirements that are set down by the department.

### School buses: review

**Hon. T. C. THEOPHANOUS** (Jika Jika) — I refer my question to the Minister for Education Services. May I say how pleased I am to be able to ask this question.

*Honourable members interjecting.*

**Hon. T. C. THEOPHANOUS** — Just listen! Can the minister advise the house how the outcomes of the Bracks government's publicly released review of school bus services will assist school children in non-metropolitan areas?

**Hon. M. M. GOULD** (Minister for Education Services) — I thank the honourable member for his question and for his tireless and committed work as chairperson of the review. I am extremely pleased to advise the house that the Bracks government will be using the outcomes of that review as a basis for providing a massive boost to Victorian school bus services.

State-funded school bus services and allowances have existed in this state for many years, indeed many decades. The primary focus is providing free school buses to students who live more than 4.8 kilometres from their nearest government school in non-metropolitan areas. I know the National Party is very interested in this.

This system also provides for allowances for students who do not have access to free buses, including non-government school students who fulfil the relevant requirements. The previous government, however, had conducted a secret Clayton's review of school buses back in 1993, and that was led by the Honourable

Andrew Brideson. But, as usual, members of the previous government could not care less about country and regional areas. They largely ignored the issues because they were too hard. They did not care about students in rural and regional schools who missed out on the bus services that they needed to get to school.

In contrast, the extensive review conducted by the Honourable Theo Theophanous and deputy chaired by the Honourable Glenyys Romanes will result in significant improvements to the school bus system. Over \$31 million will be allocated over the next four years to implement the recommendations of Mr Theophanous's review of school buses. These reforms will result in a far more flexible and equitable school bus system, which will in turn strengthen our communities and deliver a stronger education infrastructure to our rural areas.

I will quickly highlight some of the changes. Private car travel reimbursements where students cannot access a free bus service have been substantially reformed. Currently this is a \$300 per student subsidy no matter how far the student travels. That will now vary according to the distance travelled, which will result in increases of up to \$700 for each student.

Similar increases will be made to allowances paid to non-government schools in rural areas to subsidise private bus services. A new allowance has also been established to assist deaf and blind students with private car or taxi travel. This provides \$2000 a year for each student.

The number of non-government school students in an area will now be considered when starting up a new school bus service. Those students were ignored by the previous government — they were left to scramble onto a bus wherever they could.

We all know that the previous government turned its back on rural and regional Victoria. The Bracks government has delivered on its promise to improve school bus services. We are investing in our students' future and turning things around.

### Land tax: small business

**Hon. ANDREA COOTE** (Monash) — I refer the Minister for Small Business to two small businesses that have been badly affected by increases in land tax. One is a small market research consultancy in Richmond that went from paying \$1400 in land tax in 2000 to \$18 740 in 2001; and another is a cafe in Camberwell whose land tax went from \$18 000 in 2000 to \$50 000 in 2001. Is it not a fact that the changes

announced last week will in no way benefit small businesses?

**Hon. M. R. THOMSON** (Minister for Small Business) — Let me reiterate again: I am not the Treasurer and I am not responsible for tax. However, I think it is a joke that the opposition would dare to bring up land tax. When in government they brought the \$185 000 land tax threshold down to \$85 000, increasing the number of people caught in the land tax threshold. Where were they defending small business then? They were not there. The Bracks government has lifted the threshold from \$85 000 to \$125 000, and again to \$150 000. In the latest round we have increased the threshold to \$150 000 and have taken 21 000 out of the land tax loop. I suggest the hypocrisy of the opposition has no limits.

*Supplementary question*

**Hon. ANDREA COOTE** (Monash) — Given that the minister is not the Treasurer but is the Minister for Small Business — so we want her to be responsible for small business — is it not a fact that this threshold increase brought in by her government will not benefit metropolitan small businesses in any way?

**Hon. M. R. THOMSON** (Minister for Small Business) — As I have already said, this is a hypocritical question coming from an opposition that in fact lowered the threshold from \$185 000 to \$85 000 when in government and brought more people into the land tax loop. As a result of the packages announced by the Treasurer, 21 000 will come out of the land tax loop.

**Information and communications technology: growth**

**Hon. KAYE DARVENIZA** (Melbourne West) — I refer the Minister for Information and Communication Technology to current statistics indicating that Victoria's economic strength is resulting in a net migration back to Victoria. Will the minister indicate how the information and communications technology industry is assisting in Victoria's growth and what the Bracks government is doing to encourage this sector?

**Hon. M. R. THOMSON** (Minister for Information and Communication Technology) — I thank the honourable member for her question. The statistics referred to by the honourable member were from the *2002 Victorian Year Book* and were also reported in an article in the *Age* of Wednesday, 1 May, titled 'Statistics prove Victoria is the place to be'. Those statistics indicate that Victoria enjoyed a net

immigration of around 35 000 people in 2000–01, which is the highest gain since 1997 and shows the benefits of the Bracks government's commitment to growing the whole of the state.

The Bracks government's strong leadership and clear strategies have already delivered real benefits, including the fastest growing economy in Australia. Victoria's unemployment levels are the lowest they have been in more than 10 years at 5.8 per cent, and the state's economy is growing above the national average. The Bracks government's Building Tomorrow's Businesses Today package, which is a \$364 million package of initiatives to grow Victoria's businesses and create new jobs, will continue to make Victoria the place to be for business.

In turning things around we are making Victoria the place to be for the best and the brightest, especially in the information and communications technology (ICT) industry. The Victorian industry has a turnover of \$19 billion per annum, which is not an insignificant turnover. It employs 62 000 Victorians and makes an economic contribution to the state of \$5.8 billion. Victoria continues to be the centre of ICT research and development and now accounts for nearly 40 per cent of all private sector expenditure in this area.

From 2000 up to April this year the Bracks government has provided over 160 grants under its trade fairs and missions program to ICT companies. Companies that participated in 2000–01 have projected export outcomes of \$183 million over two years. Since 30 June 2001 the government has facilitated approximately 920 jobs and around \$128 million in capital investment in the ICT sector. It is also a dynamic small business sector with around 6000 firms in ICT.

Earlier this year, as I announced in the house, the Indian company Tata Consultancy Services announced its intention to establish a global development centre in Melbourne which will create 200 new jobs.

Just over a week ago I was fortunate enough to be able to assist and launch Blue Tongue Software's new game *Jurassic Park*, which has been developed for Universal Interactive around the world. This places Blue Tongue Software at the forefront of computer game developments. I congratulate the company on its creativity and the fact it has involved other Victorian companies and the Melbourne Symphony Orchestra in the development of that game. The company will employ 25 additional people on the basis of what it is doing. I am sure it will have a very successful future in providing games for the world market. It is the

leadership by the Bracks government that will lead — —

**The DEPUTY PRESIDENT** — Order! The minister's time has expired.

**Payroll tax: small business**

**Hon. E. G. STONEY** (Central Highlands) — Why has the Minister for Small Business not reduced the amount of payroll tax that small business pays to reflect the actual increase in wages over the past 12 months?

**Hon. M. R. THOMSON** (Minister for Small Business) — I will add again that I am not the Treasurer and I am not responsible for the taxation cuts that have been announced by the Treasurer, but I reiterate what they are. The tax package announced in relation to payroll tax will see half a per cent taken off payroll tax through both the Better Business Taxes and the Building Tomorrow's Businesses Today packages, both announcements having been made by the Treasurer. The announcement of that tax reduction has been welcomed by the business community, business organisations and by individual businesses.

*Honourable members interjecting.*

**Hon. M. R. THOMSON** — I know the opposition does not want to hear about it. It knows the business community has welcomed the package. It appreciates the business statement and the intent of the government to make it easier for businesses to do business in Victoria.

I say it again: this is a package of over \$1 billion of business tax cuts out of Better Business Taxes and Building Tomorrow's Businesses Today.

*Supplementary question*

**Hon. E. G. STONEY** (Central Highlands) — The minister has thrown a few figures around. The facts are that payroll tax has been reduced by about 2 per cent and wages have increased by 3 to 4 per cent. In relation to her answers to the Honourable Gordon Rich-Phillips and me, why has the minister conned small business into thinking it has had a payroll tax deduction when in fact it has had a payroll tax increase?

**Hon. M. R. THOMSON** (Minister for Small Business) — I say it again: they have had half a per cent taken off the payroll tax rate as a result of the statements made by the Treasurer.

**Electricity: solar hot-water technology**

**Hon. G. D. ROMANES** (Melbourne) — Given that Victorians are increasingly looking for renewable energy options, will the Minister for Energy and Resources provide the house with details of recent initiatives delivered by the Bracks government to further encourage the uptake of solar hot-water technology throughout Victoria?

**Hon. C. C. BROAD** (Minister for Energy and Resources) — I thank the honourable member for her question and her dedication to these policy areas. Promoting the uptake of innovation in energy options is a key priority of the Bracks government and forms part of its commitment to building sustainability into everything the government does.

As the honourable member mentioned in her question, Victorians are exploring the options on their sources of energy and the Bracks government is committed to maximising their options and minimising the cost to them.

I am pleased to inform the house that, in terms of recent initiatives, recently I had the pleasure of launching a pilot project in the Macedon Ranges Shire involving the retro-fitting of existing electric hot-water systems with solar panels. This is the first such program in Australia and is unique in that it utilises existing electric hot-water storage tanks. Retro-fitting in this way significantly reduces the cost to residents of converting to solar hot water.

This is a cooperative initiative between the Bracks government, the Macedon Ranges Shire Council and the Master Plumbers and Mechanical Services Association of Victoria and, on behalf of the government, I thank all those involved in the project. I would like to specifically mention the green plumbers who are specially trained and accredited members of the master plumbers association and who are conducting the retrofits at a fixed price.

The Bracks government expects that the results of this pilot program will increase the choice of solar hot-water systems available to all Victorians and welcomes the energy and greenhouse savings that will result from the installation of retrofit kits.

I am also pleased that this project builds on another Bracks government initiative — the \$15 million solar hot-water program — because through the Sustainable Energy Authority the government is supporting this pilot project with funding from the solar hot-water rebate program.

The Sustainable Energy Authority is another initiative delivered by the Bracks Government. Since the commencement of the solar hot-water rebate program more than 2200 solar hot-water heaters have been installed in Victoria. Of those, 40 are retrofit kits. With the government's commitment, demonstrated through this pilot project and the rebate, it expects there will now be a far greater uptake of solar hot-water technology throughout Victoria.

I look forward to being able to build on these initiatives with further initiatives contained in today's state budget that invests in a sustainable energy future.

## MOTIONS TO TAKE NOTE OF ANSWERS

### Freeza program

#### Skilled Stadium, Geelong

**Hon. I. J. COVER** (Geelong) — I move:

That the Council take note of the answer given by the Minister for Sport and Recreation to a question without notice asked by the Honourable E. C. Carbines relating to sports infrastructure and the answer given by the Minister for Education Services to a question without notice asked by the Honourable Jenny Mikakos relating to funding for the Freeza program.

I deal first with the answer given by the Minister for Sport and Recreation to the question regarding Kardinia Park. The minister is now leaving the chamber — I thank him for his support.

The minister waxed lyrical about the work of government members representing Geelong in asking him to go down to Geelong last Friday to announce a study — perhaps the 700th or more study — into the upgrade of Kardinia Park, as proposed by the Geelong Football Club.

I raised this matter during the adjournment debate on 27 March when the Leader of the Government was the only minister present for that debate. On that occasion I asked whether the Minister for Sport and Recreation would support the proposal by the Geelong Football Club for a Kardinia Park upgrade. The Leader of the Government said in response that she would pass the matter on to the Minister for Sport and Recreation who, no doubt, would respond in the usual manner. It is now almost six weeks later and I have had no response from the minister, so I can only assume his response is his usual no response.

It also highlights that the new system the government has introduced of having only one minister available during the adjournment debate is not working. Had the Minister for Sport and Recreation been in the house on that night he could have given an immediate response rather than wait six weeks to answer a dorothy dixer from the Honourable Elaine Carbines about his visit to Geelong. The minister was photographed in the *Geelong Advertiser* with the Geelong Football Club captain, Ben Graham, taking a mark over him from behind.

I now refer to the response by the Minister for Youth Affairs regarding the announcement about Freeza. She has also left the chamber, which is a shame, because I was going to take the opportunity to welcome her announcement of \$2 million recurrent funding for the Freeza program. While I say at the outset the announcement is welcome, I point out that it merely restores the \$300 000 cut from the funding some 12 months ago by the previous Minister for Youth Affairs when he bungled the budget process. It resulted in uncertainty and anxiety for young people throughout Victoria. It is a shame that the government caused so much anxiety and uncertainty for young people.

I recall a recent debate when the Minister for Youth Affairs was challenged to restore the funding and, indeed, to match the Liberal Party's commitment of \$3 million recurrent funding. During that debate I told the house about the concerns and fears being articulated by young people throughout Victoria and what an unhappy time it was for them having to cut back on the events that they had already planned when the \$300 000 was removed by the previous minister.

As I said, the uncertainty surrounding Freeza funding for the best part of 12 months was an unhappy time for young people. Fears were also raised by young people that the Freeza program would be cut altogether. So I welcome the announcement by the government that funding is being restored to the program and that it will be recurrent funding in line with the Liberal Party's commitment, articulated in February, that it would commit \$3 million to the Freeza program for the life of the Liberal government. As I have said, the young people of Victoria should not have been put through that period of uncertainty and anxiety.

I also note a *Herald Sun* report last Friday announcing the Freeza program funding, which the minister repeated today in the house when she said that the government was listening to young people and had responded accordingly. I trust the minister is big enough to admit that she also listened to members of the opposition, given that we were calling for this

increased funding for more than 12 months. I would like to think that the minister has listened and responded to the call by the Liberal Party, committed to in February when the announcement was made about the Freeza program, so that young people could continue to have safe drug and alcohol-free entertainment.

**Hon. E. C. CARBINES** (Geelong) — I am pleased to respond to both of those issues. Indeed I was delighted to attend Skilled Stadium last Friday with my parliamentary colleagues the honourable members for Geelong and Geelong North in the other place; the Minister for Sport and Recreation; Frank Costa, the President of the Geelong Football Club; Stewart Fox, the manager of the ground; and the mayor of the City of Greater Geelong, Cr Barbara Abley.

For a long time the Geelong Football Club has been seeking an upgrade of the whole Kardinia Park precinct, not just for the football club and Skilled Stadium, but for all the facilities in the park precinct. I am pleased there has been wide-ranging consultation with all user groups of Kardinia Park, which have worked well together to approach not just the state government but also the City of Greater Geelong for a much-needed upgrade.

This is very important for Geelong. The Geelong Football Club is very important to the economy of Geelong. We want to see the football club maintained in Geelong so that home games will be played at Skilled Stadium. It was great to have the minister present in Geelong last Friday to commit to the funding of a feasibility study for that much-needed upgrade.

The news was very well received by the Geelong community. It resulted from the many representations not just to local government members in Geelong but also to the minister. We were delighted that the minister came down and committed to that funding last Friday.

I congratulate the Minister for Youth Affairs on her commitment to provide the Freeza program with recurrent funding of \$8 million over four years, which builds on the already well-established commitment of the Bracks government to the Freeza program since coming to office. In our first year of government we doubled the funding for Freeza. The previous government committed only \$1 million per year for Freeza. In our first year we doubled that to \$2 million and in the next year we provided \$1.7 million. It is very good news that over the next four years Freeza funding will be secure at \$2 million per year, a total of \$8 million.

It is very important to acknowledge that under the Bracks government not only has the funding for Freeza increased but it is now secure. Not only has the funding grown but also the number of Freeza providers across the state has been increased from 43 to 60 with the major growth being in rural and regional Victoria, which has been very important to the community that I represent. As a result, the number of participants in the Freeza program has increased dramatically. The Bracks government has also tried very hard to involve young people from marginalised groups in Victorian society by staging events that benefit those people such as same-sex events and events that include marginal young ethnic people.

Freeza is a great program. The government is very pleased to not only maintain its funding but also to guarantee its future, which the previous government did not do. The Honourable Andrew Olexander admitted to me last week that members of the opposition ran around Victoria in a great scare campaign over Freeza. I note that he is very pleased that we are committing to this funding today.

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

**Motion agreed to.**

**Land tax: small business**

**Payroll tax: small business**

**Workcover: premiums**

**Hon. W. I. SMITH** (Silvan) — I move:

That the Council take note of the answers given by the Minister for Small Business to questions without notice asked by the Honourables Andrea Coote, G. K. Rich-Phillips and W. I. Smith.

The Minister for Small Business was asked a variety of questions today on the impact of the budget the government has issued on cuts for small business. She was asked those questions because businesses in this state have lost confidence in the Labor government and the cost of doing business has increased enormously under the Bracks government. Small business has lost confidence in the Bracks government which knows that small and large business has lost confidence in it. That is why it has separated the budget for business out of the budget announced today.

We know from survey after survey of businesses in the state that one of the major reasons that businesses have lost confidence in Victoria is the high cost of doing

business, such as Workcover costs, land tax and payroll tax.

Jobs have been lost in this state — businesses have pulled out; we have lost investment and jobs. Since the Bracks government took office 19 607 real jobs have been lost in businesses including Virgin Airlines, Bonlac and a range of other businesses that will not do business in Victoria because of the high cost of doing business.

So the Bracks government has responded by introducing a budget outside the budget to put forward what it is saying is delivering a cheaper way of doing business in Victoria.

Let us look at some of the comments. The Minister for Small Business was trying to suggest that it was not her responsibility but she does happen to sit around the cabinet table and make decisions on what impacts on small business. You would have to ask why she did not argue more strongly for cuts in Workcover, for a serious look at Workcover premiums and not be part of a decision of this government just to freeze Workcover premiums.

Let us look at what the business community says about the business budget that was released several weeks ago. I refer to an article by Alan Wood in the *Australian* of 23 April. In an article headed, 'Bulldust raised in splitting the budget', he said:

You don't have to be Machiavelli to work out the politics of the Bracks government's business statement.

...

The heart of [the] package is further tax cuts for business, including payroll tax cuts. Treasurer John Brumby's problem is that after the recommended abolition of payroll tax last year —

which his own government defeated. The article states that he has been 'fiddling with the rate' and it 'looks like a second-best solution'.

The article states further:

In short, it's the familiar mixture of a few useful initiatives and rather a lot of bulldust relating to vision and strategic planning.

The president of the Property Council of Australia, Bill Russell, is quoted as having said:

The state government's proposed business tax cuts are inadequate and a missed opportunity ... the tax cut proposals outlined in the government's business statement ... will do little to ease the high costs of doing business in Victoria.

In support of that we have only to look at some of the answers given by the Minister for Small Business to questions today. On the question on how many small businesses will be affected by payroll tax, she could not even answer it and had to be reminded by the Honourable Gordon Rich-Phillips that by the government's own analysis 300 small businesses will be impacted upon by the reduction in payroll tax. Well, big deal! We know that businesses out there do not believe they have had a cut in payroll tax. Their wages have gone up 3 per cent to 4 per cent in real wage increases in the last 12 months and they have had a tax reduction of 2 per cent on their payroll tax. It is a con and it is the same with land tax.

The question is: how many metropolitan small businesses would actually own land worth less than \$150 000? Small business has seen a huge increase in the last 12 months in land tax. We saw some examples given during question time by the Honourable Andrea Coote. The reality is that tax increases have been so enormous that the rise from \$125 000 to \$150 000 has had very little real impact on small business in metropolitan Melbourne. Businesses will feel the impact because it will be passed on to tenants and small businesses.

It is the same with Workcover, which blew out two years ago. The government panicked: it froze it and it still freezes it. It has done nothing to reduce the problems of the huge increases in Workcover premiums in 2000–01.

The real question of this budget will be whether small business returns and believes with confidence in this government. I suggest that small business will not be fooled by this con.

**Hon. JENNY MIKAKOS** (Jika Jika) — I find it quite amusing that members of the opposition are seeking today to raise a debate on the issue of state taxation. They have an absolutely abysmal track record when it comes to taxation, not only at the state level but also at the federal level, and here we have the opposition yet again trying to demonstrate that it has some sort of policy and ideas in relation to taxation. I want to take the opportunity to indicate to the house not only the government's track record on state taxation matters but also the types of promises that the opposition has already made in this particular area.

This government is proud of the fact that it has already made a very significant contribution to jobs in this state by delivering significant tax cuts to Victorian businesses, not only last year but also in this year's budget that will be handed down later today.

Honourable members are aware that last year this government handed down more than \$774 million in business tax cuts. We have been prepared to bring forward \$86 million of those tax cuts this year and in addition to that we are providing another \$176 million in new tax cuts that were announced recently in the Building Tomorrow's Businesses Today tax package.

This is a total package of over \$1 billion in tax cuts, which is a huge boost in confidence and in jobs to Victorian businesses and Victorian families. We are absolutely unashamed of our support for Victorian businesses because we believe this will make a significant contribution to employment and to the level of business investment and business confidence in this state.

The details of the Building Tomorrow's Businesses Today tax package include an increase in the payroll tax threshold from \$515 000 to \$550 000 from 1 July 2002. That is a year ahead of schedule, a year ahead of the increase in the payroll tax threshold which we announced in last year's budget.

This increase in the payroll tax threshold will be the first increase in over a decade and will free hundreds of Victorian small businesses from payroll tax liability. In addition, the payroll tax rate will be reduced from 5.45 per cent to 5.35 per cent from 1 July 2002 — a year ahead of schedule. An additional reduction in the payroll tax rate will be made from 5.35 per cent to 5.25 per cent from 1 July 2003.

I suggest to the Honourable Wendy Smith that she checks the Treasurer's media release in this respect. I am happy to provide her with further details of this two-step incremental reduction in the payroll tax rate. This is a significant reduction from the rate of 5.75 per cent the Bracks government found when it came into government in September 1999.

On a number of occasions we have demonstrated our support for Victorian small businesses by reducing the payroll tax rate. By 1 July 2003 it will be 5.25 per cent, which is a very competitive position compared to other Australian states.

The changes in the land tax area will free a number of small businesses, investors and self-funded retirees from paying land tax. It is expected that up to 21 000 small business people will be freed by an increase in the land tax threshold from 1 July this year from \$125 000 to \$150 000. This is in contrast to the position of the former Kennett government that reduced the threshold from \$200 000 to \$85 000 and forced 70 000 land holders in this state to pay land tax.

We are strong supporters of Victorian businesses. We have delivered over \$1 billion in tax cuts, which is in stark contrast to the position of the opposition.

**Hon. R. H. BOWDEN** (South Eastern) — In relation to small business and industry in general, but particularly small business, the Bracks government reminds me of a well-known performance by a very creditable international entertainer, Victor Borge, who amused his audiences around the world with a violin technique. He would speak for a long time about the beauty of the violin, the great sound of the violin, the wonderful curves of the violin and the techniques and the thrills that violin music can bring, and he would finish his comments by saying 'But I never learnt to play it'.

This is the type of reaction that I have when I listen to business matters from the present state government. It is a high-taxing government, it is a big-spending government and it does not engender business confidence. Where payroll tax, land tax and Workcover are concerned its record is not good.

The opposition has information published earlier this year that says land tax receipts to the Bracks government have increased from \$369 million in 1998–99 to an estimated \$525 million in the year 2001–02. The increase in the land tax threshold from \$125 000 to \$150 000 has only saved land tax payers \$5 million when the overall collection rate has increased by \$156 million. This state government is handing back \$5 million and taking \$156 million in land tax. I do not think that is likely to be well received. Even though the land tax community is painfully aware of it, I do not think the government understands the type of reaction that numbers of that sort engender.

If you look at some past accurate information published in a media release of 3 October by the shadow Treasurer, the honourable member for Box Hill in another place, Robert Clark, you can see that, using published information, land tax in Victoria has increased from \$425 million in 1999–2000 to a budgeted \$569 million in 2001–02, which is a 33.4 per cent increase in just two years. On several occasions over the last few years since we have been in this chamber under the Bracks government regime we have had to listen to the wonderful progress it is making and how wonderful it is in managing the land tax impost on small businesses, but that is wrong.

I wish to spend a few minutes speaking about Workcover. Workcover is a very real cost. No matter what definition you put on it — the minister said it is an

insurance policy while others look on it as a tax — it is still an inescapable cost —

**Hon. W. I. Smith** — A huge cost.

**Hon. R. H. BOWDEN** — A huge cost, as the Honourable Wendy Smith said, and it is definitely one of those factors that is controllable, manageable and under the influence of the state government. That is inescapable.

The proprietors of a small business in my electorate wrote to me saying that their industry has no high physical risk. They have had no claims on their policy since they started business some 25 years ago but their premium has gone from \$7589.94 to \$14 562.79, an increase of 49 per cent.

**Hon. W. I. Smith** — And it's frozen.

**Hon. R. H. BOWDEN** — And it's frozen. Here is a business with no claims in 25 years, a reasonable volume of people on its staff, a good business and a business which has no chance of a cut under this present government, yet we are asked to accept the government's assurances that it has everything under control. The small business community cannot do that.

When it comes to the matter of Workcover costs I would like to cover one other matter. The incidence of Workcover claims on hospitals is appalling. Information shows that massive increases have occurred in the incidence of Workcover payments on hospitals. In my area of Wonthaggi the Workcover premium for the Wonthaggi and District Hospital has increased from \$284 000 to \$454 000, a 59.9 per cent increase.

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

**Motion agreed to.**

### **Schools: safety and security**

**Hon. P. R. HALL (Gippsland)** — I move:

That the Council take note of the answer given by the Minister for Education Services to a question without notice asked by the Honourable P. R. Hall relating to the testing of school electrical appliances.

This is an important subject, and circular 69 of 2002 describes the obligations and requirements of schools regarding electrical appliance inspection and safety standards. The National Party is not opposed to such inspections because we feel that electrical safety inspection and testing is a necessary function to be

undertaken by schools and school communities, and the safety of students in schools is paramount. We do not object to the requirement for schools to undertake specific matters related to electrical inspections and testing.

What we are concerned about is the cost burden that this is now imposing upon schools. As I said in my question to the Minister for Education Services today, a school, particularly a big school, could literally have 1000 or more electrical appliances which need to be tested and inspected on a regular basis. Even small schools would probably have in excess of 100 different electrical appliances. Some of the schools in my electorate have calculated the cost involved. Some electrical contractors charge anywhere from \$15 to \$30 to test electrical appliances, and when that is multiplied by 100, or 1000 electrical appliances in the case of some of the bigger schools, then the cost is a significant one which amounts to thousands of dollars a year.

Our grave fear is that schools once again have been left to bear this cost without a specific component of school global budgets being included to cover the cost. Schools are required to comply with the Australian safety standard that came in for schools in 2000, and certainly by the end of this year schools will have to produce documentation and evidence that they comply with the electrical safety standards.

There will be a cost burden upon schools, and I suggest it will come as a surprise to many schools. It is fine for the minister in her answer today to say that schools have agreed on school global budgets, but this is one of those hidden costs which schools up until now have not been fully aware of. It will be a significant additional cost. It will also be a significant administrative cost that schools will have to bear.

Circular 69 of 2002 sent to all schools states:

A recording system with dates and results of testing must be in place. Items are to be tagged at time of testing. Tags are to be made of a non-metallic and durable material and be non-reusable. They should contain the date of testing and the name of the person or company that did the testing.

Significant administrative requirements will be placed on schools to keep accurate records of all testing and inspections that have taken place on electrical appliances. This is a significant additional financial and administrative burden on schools.

Must there always be a qualified electrician to carry out an inspection? No, not always, but it is required for some forms of electrical appliances, but there can be, as described in the circular, a competent person to carry out some of the inspections within the school. A

competent person is defined in the circular as a person who has undertaken specific training in this particular area. One can perhaps undertake a TAFE college course to obtain competency in electrical inspections, but that is a cost to the school and the teacher being away from the school so that they can undertake that training. It says in the circular that the school can hire electrical testing equipment from certain suppliers, but once again at additional cost to the school.

This will be a major cost impact on schools in the state. I urge the government to consider that if all schools have to comply with these requirements a more cost-efficient way of doing it may be for the government through its regional offices to employ or contract specific people with qualifications to undertake tests on a school-by-school basis. That is probably a more cost-effective means of ensuring that all schools comply with the particular electrical safety standards. It is a hidden cost that has crept up on schools. Schools in rural areas that may not have ready access to electrical contractors to do this work will feel it hardest. Schools with small budgets will also feel it. I urge the government to examine this issue again to see if there is not some way in which the cost that schools will need to comply with can be offset.

**Motion agreed to.**

## QUESTIONS ON NOTICE

### Answers

**Hon. J. M. MADDEN** (Minister for Sport and Recreation) — I have answers to the following questions on notice: 2686, 2696, 2713, 2717, 2718, 2725–7, 2729–31, 2737, 2747–51, 2753, 2755, 2758–60, 2765–7, 2808, 2825, 2826, 2840, 2841.

## SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

### *Alert Digest No. 4*

**Hon. A. P. OLEXANDER** (Silvan) presented *Alert Digest No. 4 of 2002, together with appendices.*

**Laid on table.**

**Ordered to be printed.**

## PAPERS

### Laid on table by Clerk:

Adult Multicultural Education Services — Report, 2000–2001.

Ballarat University — Report, 2000–2001 (two papers).

Bendigo Regional Institute of TAFE — Report, 2000–2001.

Box Hill Institute of TAFE — Report, 2000–2001.

Central Gippsland Institute of TAFE — Report, 2000–2001.

Centre for Adult Education — Report, 2000–2001.

Chisholm Institute of TAFE — Report, 2000–2001.

Cinemedia Corporation — Report, 1 July 2001 to 31 December 2001.

Crown Land (Reserves) Act 1978 —

Minister's Order of 19 April 2002 giving approval to granting of a lease at Jeffcott

Minister's Order of 19 April 2002 giving approval to granting of a lease at Maldon.

Deakin University — Report, 2000–2001.

Driver Education Centre of Australia — Report, 2000–2001.

East Gippsland Institute of TAFE — Report, 2000–2001.

Gordon Institute of TAFE — Report, 2000–2001.

Goulburn Ovens Institute of TAFE — Report, 2000–2001.

Holmesglen Institute of TAFE — Report, 2000–2001.

Kangan Batman Institute of TAFE — Report, 2000–2001.

La Trobe University — Report, 2000–2001.

Melbourne University — Report, 2000–2001

Monash University — Report, 2000–2001.

Mount Stirling Alpine Resort Management Board — Report, 2000–2001.

Northern Melbourne Institute of TAFE — Report, 2000–2001.

Parliamentary Committees Act 1968 — Minister's response to recommendations in the Economic Development Committee's report upon the Inquiry into the Impact of the Goods and Services Tax on Small and Medium Sized Businesses in Victoria.

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

East Gippsland Planning Scheme — Amendment C3 Part 1.

Hume Planning Scheme — Amendments C32, C34 and C35.

Maribyrnong Planning Scheme — Amendments C8 and C27.

Maroondah Planning Scheme — Amendment C26.

Melbourne Planning Scheme — Amendment C64.

Monash Planning Scheme — Amendment C6.

Moyne Planning Scheme — Amendment C1.

South Gippsland Planning Scheme — Amendment C7.

Whittlesea Planning Scheme — Amendment C33.

Wodonga Planning Scheme — Amendment C11.

Yarra Planning Scheme — Amendment C31.

Practitioners Registration Board of Victoria — Minister's report of failure to submit 2000–2001 report to him within the prescribed period and the reasons therefor.

Royal Melbourne Institute of Technology — Report, 2000–2001.

South West Institute of TAFE — Report, 2000–2001.

Sunraysia Institute of TAFE — Report, 2000–2001.

Swinburne University of Technology — Report, 2000–2001.

Victims of Crime Assistance Tribunal — Report, 2000–2001.

Victoria University of Technology — Report, 2000–2001.

Victorian Law Reform Commission — Report on Criminal Liability for Workplace Death and Serious Injury in the Public Sector.

William Angliss Institute of TAFE — Report, 2000–2001.

Wodonga Institute of TAFE — Report, 2000–2001.

**Proclamations of His Excellency the Governor in Council fixing operative dates in respect of the following Acts:**

Post Compulsory Education Acts (Amendment) Act 2001 — Remaining provisions — 3 May 2002 (*Gazette No. G18, 2 May 2002*).

Sentencing (Amendment) Act 2002 — Remaining provisions (except for sections 8, 9, 11 and 14) — 2 May 2002 (*Gazette No. G18, 2 May 2002*).

Road Safety (Alcohol Interlocks) Act 2002 — Remaining provisions — 13 May 2002 (*Gazette No. G18, 2 May 2002*).

**BUILDING AND CONSTRUCTION INDUSTRY SECURITY OF PAYMENT BILL**

*Second reading*

**Debate resumed from 24 April; motion of Hon. J. M. MADDEN (Minister for Sport and Recreation).**

**Hon. P. A. KATSAMBANIS (Monash)** — The opposition does not oppose the Building and Construction Industry Security of Payment Bill that is before the house today. In a lot of ways the bill has a noble cause — to change the culture and the habits that have built up over many years in the building and construction industry in relation to payment upon contract and upon agreement. As members of this place would know, there is no doubt that things often go wrong within the building and construction industry and the parties involved at various levels are often left unable to obtain payment for work or for goods and services that have been provided. That can occur at almost any level; from the payment of a developer or a financier through to professionals engaged in planning and designing buildings and the various tradespeople involved in building and construction.

I dare say every member in this place will have come across stories, issues and cases where, through no fault of their own, hardworking people who had performed their duties to the best of their abilities in the expectation that they would be paid have ended up not being paid. This has caused significant hardship and in many cases has led to the collapse of businesses and financial and personal ruin for a lot of people. As far as this bill attempts to change those happenings and occurrences and to protect from financial hardship parties involved in the building and construction industry in Victoria the opposition wishes this bill every success. However, upon examination it appears highly unlikely that the bill will lead to any real or concrete change, especially in the short to medium term.

It is instructive to note that the government intends to review the operation of the bill 12 months after its introduction. If you are looking at significant cultural change and if you are looking at changing the habits of a lifetime in an industry, I think that 12 months is a very short time frame. But the fact that the government is looking at reviewing the operation of the bill in 12 months probably indicates it has grave concerns that what it is introducing is not really going to affect anything in practice. That is why the opposition is not opposing the bill rather than supporting it. We support the higher cause that this bill is trying to address which is, to put it simply, 'Don't think in practical terms'. It is not going to effect very much change at all, and there are plenty of groups within the industry who, in practical terms, agree.

Essentially the bill deals with four major issues and introduces four significant changes to the ways things happen in the building and construction industry. Firstly, it introduces a default system for payment, or it attempts to introduce a default system of payment. I

will address the issues relating to that in due course. Secondly, it introduces an adjudication process for disputes that arise under this default system for payment. Thirdly, it addresses the issue of what is commonly known in the industry as provisions for 'pay when paid'. These occur where one contractor on one level says to a subcontractor, 'I will pay you when I get paid'. They are very common at all levels, from professional services right through to building work itself. Fourthly, the bill sets out a process to recover payment from the principle at the top of the chain of contracts in any particular building dispute which can, of course, create lots of problems, and I will address issues related to that process in due course.

The default system for payment that this bill attempts to introduce is a noble one, however, the way I read the operation of the bill, there are more exclusions than inclusions. There are already many standard contracts operating in the marketplace, either contracts that are given legislative backing or contracts that are used extensively through custom in various segments of the industry. They all have their own payment systems. Additionally, payment systems were introduced under the Domestic Building Contracts Act 1995. Clause 7 of the bill makes it clear that contracts falling under the operation of the Domestic Building Contracts Act are of themselves excluded from the operation of the provisions in this bill in relation to security of payments. But when we look at what contracts can be included under the Domestic Building Contracts Act we see that the inclusion provisions in the act also have a series of exclusions, so that when we try to marry the operation of the new bill with the Domestic Building Contracts Act and with all the various contracts that exist in the marketplace, we can see that there are more exclusions than inclusions.

If you are a practitioner in the building construction industry, especially if you are a practitioner at the service delivery end such as a cabinet-maker, a carpenter, a plumber or an electrician, you are never going to be certain whether you will be covered by the Building and Construction Industry Security of Payment Bill, the Domestic Building Contracts and Tribunal Act or some other legislative or contractual arrangement.

It was interesting that the task force called by the government in 2000 to look at this issue — the security of payments in the building and construction industry generally — recommended that these provisions apply as broadly as possible. It is also interesting to note that both the Housing Industry Association and the Victorian Institute of Steel Detailers have suggested to the opposition that the exclusion provisions are far too

complex and it would be preferable to have a security of payment system introduced that had little or no exclusion at all so that there would be certainty in the industry as to what standards applied, what the nature of the default payment process was and what the nature of the adjudication process was, so the people would know quite clearly what laws applied to them.

We know there are many reasons why there are significant financial failures and collapses in the building and construction industry: a lot of it is to do with underquoting; some of it is about not understanding the scope of the job; some of it is because some people are much better tradesmen than they are business people; and other times it is something that happens to the person who gets caught at the end of the chain that is not that person's fault but causes the payment system to break down. A lot of the time we tend to say that these people need legislative protection because they are at the end of the chain and cannot really do a lot about what happens at the top of it. That is why we as legislators intervene and introduce legislation to try to protect these people.

When we do that we must ensure that the legislation is as clear and transparent as possible and that the people out there in the industry know exactly what legislation applies to them.

Submissions have been made to the government to the effect that the system they are proposing to introduce is far too complex. You can be excluded from the operation of this legislation and move to the Domestic Building Contracts and Tribunal Act then find that you are excluded on some technicality from that act as well. Then whether you come back to this legislation, back to common law or to another contractual provision, it is just simply too complex.

So, although a default system of payment is being introduced it is questionable what subsectors of industry it will apply to. It may very well be in some cases that a contract between a builder and a building owner may not be subject to the operation of this legislation, but that a contract for the same site between a builder — the very same builder — and a subcontractor may be subject to it. It is confusing. There are various rights attaching under various pieces of legislation, often for the same building site and the same set of building works when you look at them in totality; but depending on where in the chain you happen to fit you may or may not be included in the default payment system. I think that complexity is going to be part of the reason why the bill will not achieve its noble cause of effecting real cultural and

practical change in the way payment is secured in the building industry.

I will not belabour the house on this point except to point out to honourable members of this place and to the public generally that if you want a detailed, expert contribution as to why this is an area of significant concern you should look at the contribution made in the second-reading debate in the other place by the honourable member for Hawthorn, who with his practical experience over many years as a professional in the building and construction industry has outlined very fully the failings of this bill. We in the opposition outline the failings not because we do not support the cause the bill is trying to effect; on the contrary, it is because we want the bill to succeed in its noble cause; we are just concerned that because of the way it is constructed it will not meet its aims. Again I commend to everyone who wants to know all the minutiae of the failings of the bill to refer to the contribution of the honourable member for Hawthorn.

The second major thing the bill attempts to do is establish an adjudication process for disputes over payment in the building and construction industry. Of course it will only apply to disputes in those cases where there is not an exclusion or a double exclusion, nor an inclusion of an exclusion of an exclusion, as I discussed earlier. It is very complex; but eventually if someone ends up in the adjudication process under these provisions they will be able to have some redress for their concerns.

One issue I have is that the time frame seems to be rather extended. You do not have ready redress to an adjudication process because it is cumbersome and something of a paper chase. Maybe that is something the government can review in 12 months time when it comes to look at how successfully the legislation has operated.

Because the legislation is based in part on the New South Wales model we should look to New South Wales for examples. In the past 12 months the adjudication process has only been used on about 50 or so occasions. If disputes and problems of payment are as rife in the building industry as we are led to believe — and they have not been quantified but we all know from anecdotal evidence that they are everywhere — why has the adjudication process only been used 50 times in New South Wales? There are two possible reasons. One is that it is too complex and difficult for people to get there or the reason may well be that their security of payment legislation is working so terrifically well that no-one needs to go to adjudication.

If it were the latter case we would all be happy. However, the New South Wales government is now reviewing the operation of its act, which has been in place for some time, because it simply does not believe it is working. People are not getting to the adjudication process because the provisions are too complex; they are not sure if they are included or excluded; and they are finding it too hard.

Interestingly, the Housing Industry Association (HIA) has called on the Victorian government to review this bill because there are new developments in New South Wales. The HIA is saying, 'Do not go down the path of introducing legislation that in many ways mirrors that of New South Wales', at exactly the same time as the New South Wales government has said, 'Hang on, this is not working, we had better look at it'.

In its haste to introduce a bill to give the house some legislation to debate and to be seen in the marketplace as doing something, it may be that this government is throwing the baby out with the bathwater and has not stopped to look at the provisions it is introducing that mirror provisions in New South Wales that are being reviewed. The HIA submission should not be dismissed lightly. The association is expert in this area and understands better than anyone else the difficulties that can occur when the payment chain breaks down in the building and construction industry. When it tells the government to hasten slowly, the government should listen.

I am sure that these provisions will probably work well when the adjudication stage is reached. It is difficult to envisage how many cases will get to the adjudication stage because of the complexity of the system. Another issue to be considered is that if a matter needs to be adjudicated, the time frames in the bill extend the period far too long. I hope the government will look at that and review the time frames so that adjudication can be quicker and payment can be quicker to ensure that people who have done quality work and are entitled to be paid are not denied payment and do not get into financial and personal difficulties as a result.

The third aspect of the bill touches broadly on the provisions of pay when paid. They are typical provisions in the building and construction industry. My colleague the Honourable Ken Smith is shaking his head. I am sure as a reputable former plumber he understands exactly what these pay-when-paid provisions mean in practice to someone at the end of a building contract chain. Subcontractors in the building industry would have heard those three words time and again. I dare say there are plenty of subcontractors out there today who have been waiting a long time to be

paid when paid. This issue has been addressed by standing committees of the Parliament; it was addressed by the task force in 2000 and has occupied the minds of many people. Interestingly, the task force suggested that the pay-when-paid provisions should be outlawed.

In many ways such provisions essentially defeat the privity of contracts. They stop people from getting money to which they are legitimately entitled for work they have done competently and to the best of their abilities. However, the bill does not outlaw pay-when-paid provisions. The bill — and this is subtle but indicates one of the reasons I think the bill will fail — essentially denies someone a remedy when they have entered into a pay-when-paid provision. Pay-when-paid provisions will not be given effect under this legislation, so if someone enters into a pay-when-paid agreement, they will not be able to seek redress under this legislation. That is a subtle but very material difference from banning pay-when-paid provisions. If you ban them it is clear: you cannot enter into them, they have no effect, they have no force at law. That has not been done; the government has not outlawed pay-when-paid provisions. It has said that if you come under a pay-when-paid provision you will not have any redress under the legislation. It will not have any effect. That is harming the people we are attempting to protect. It will be interesting to see how it plays out in practice.

As I said, the government will review the operation of this legislation within 12 months, which is a very short time frame. I hope those sorts of issues will be addressed properly at that time. They could have been addressed before the bill was introduced. Unfortunately, they were not. I do not know if it was a drafting error or if it was consciously done. I would be interested to hear from the minister or government members why the pay-when-paid provisions were not outlawed, but rather were not to be given effect under the legislation. That essentially means that the people who need the remedy are not being protected — that is, those people who are at the mercy of the pay-when-paid provisions — the plumbers, electricians, cabinet-makers and carpenters — those at the end of the chain who are left holding the can out for money. I will be interested to hear what the government has to say about that.

Another issue that concerns me — and it dovetails a little into the pay-when-paid provisions but is a separate issue on its own — is the attempt to make the principal at the top of the contract responsible for payment where there is a breakdown in the contract. That offends my sense of justice because it could end up with someone who has legitimately paid for contracted work being

held liable again. That is a classic situation. If you only have three people in the chain — the principal contractor, the head subcontractor, and the person who performs the work — and the person in the middle gets payment from the person at the top but does not pass the payment down to the person at the end of the chain, then the person at the end of the chain can make a claim against the person who has already paid for the work. I have some concerns about that.

I am not sure how it will play out in practice, but rather than create the appropriate cultural change in the industry it tends to give comfort to rogues. It tends to give comfort to those people who might want to deliberately withhold payment along the chain, so that a plumber who legitimately does some work that has been subcontracted to him from, say, a builder may not be paid by that builder, who probably recovered the money from the person who contracted him in the first place. If the builder absconds, runs away and we cannot find him — he might even set up a phoenix company somewhere else and start again — then the plumber will go to the head contractor, the person who has already paid out for the plumber's work, who will pay that money again. It seems convoluted and tends to protect the rogue more than the innocent third party. I hope that is not the way it will work in practice, but that is how the opposition reads the recovery-from-principal provisions contained in division 4 of the bill.

The government should look at that provision to ensure it is not penalising the wrong person. I understand and have absolutely no doubt that the person at the end of the chain deserves to get paid, but why should the person at the top of the chain be forced to pay twice so as to protect the rogue somewhere in the middle? The legislation should be about protecting all the innocent parties, be they at the top, the bottom or somewhere else along the chain. It should be about penalising the rogues and driving them out of the industry.

Another good reason why the legislation should be reviewed within 12 months rather than have the longer time frame is that if the legislation is not working the government should have to act immediately to protect the innocents and punish the wrongdoers, rather than the other way around.

The only other issue I highlight about the bill is that a task force was formed, met, had extensive consultations and made a series of recommendations. That part was handled fairly properly. The task force made about 30 recommendations. However, the bill introduced by the government does not accept in full the recommendations of the task force. I am not commenting negatively on that aspect, but I point out

that the bill does not accept the recommendations in full; I think it implements about half of them. It is significant that there was little opportunity for consultation with the industry players when the bill was drafted and introduced. Although the task force part of the process was handled well, when it came to drafting and introducing the bill in this and the other place the government failed to adequately consult the industry. That has been pointed out again to the opposition by industry bodies including the Housing Industry Association, which has real concerns about the fact that the government, although it pays lip-service to consultation, does not consult when it needs to consult.

Were the bill simply implementing the task force recommendations holus-bolus there may have been some argument to say that the government had done all the necessary consultation, but task force reports are not legislation. Often the devil is in the detail. If it is being fair dinkum about being a consultative government, the government should have allowed the industry and other interested parties enough time to consider the bill now before the house and to make legitimate representations to ensure that Victoria gets the best possible legislation rather than a second-best set of legislative provisions, as are now before the house. For that the government again stands condemned. The lip-service to consultation continues to be paid, but the proof, as always, is in the pudding. This pudding is an absolute tasteless shocker, because the government is not consulting when it needs to consult.

One other aspect about the bill is that it contains — surprise, surprise! — clause 51 which limits the jurisdiction of the Supreme Court; that clause contains a section 85 statement. When you examine it you would probably suggest that in all the circumstances this is a fairly legitimate use of section 85 in that the legislation protects a person adjudicating in disputes under the provisions of the bill from being personally liable when they exercise their role as an adjudicator in good faith. That is pretty reasonable.

However, for seven and a half years opposition members had to sit in this house and listen to members of the current government, when in opposition, yelling, screaming and bleating that the then Liberal–National coalition government — I notice all government members now in the house are personally excused because they are only collectively guilty and guilty by association — was inappropriately using section 85 to limit the jurisdiction of the Supreme Court. We heard it again and again, like a broken record. However, now that the then opposition is in government it has discovered that there can be a legitimate use of those provisions; that is why they are in the Constitution Act.

It ensures that people who are fulfilling statutory duties in good faith are not personally liable to be sued in the Supreme Court.

It should be highlighted in this place that that fact again points out the duplicity of this government — that is, that when in opposition it whinged and moaned about the use of section 85 but now that it is in government it has no concern about using it. How the wheel has turned; it is yet another contradictory performance by the government!

In closing, it is clear to me and, I believe, to every member of this house that the security of payments to contractors in the building and construction industry is an issue that needs to be addressed. It is not something new but is a perennial issue. I daresay it is one that will never be solved by one magic piece of legislation, but is one that will need to be continuously revisited.

So far as the intent of the legislation is concerned, nobody in the opposition has any difficulty with it. The Liberal Party believes players in the building and construction industry should have certainty and security of payment for work done. We understand that unfortunately from time to time there are breakdowns; some are inadvertent but all too many are deliberate. We should make sure we can catch the people who abuse the system by denying people rightful payment for work performed. The Liberal Party has no problem with any of that.

We believe the legislation, although it has the best of intentions, is likely in practice to have very little practical impact because it has more exclusions than inclusions. It is complex and difficult to see which contracts will or will not be covered. It has an adjudication process with a long lead-in time, which means that most practical business people would rather sit down and resolve a dispute themselves even if it leads to some detriment, because they do not wish to wait for an extended period when they have debts they need to cover.

The bill may not work because it does not outlaw pay-when-paid provisions and it probably harms rather than helps people who need protection from pay-when-paid provisions. It may well unfairly prejudice people who have paid for building work and make them pay for building work a second time when the person who has defaulted on the payment has run away and is nowhere to be found or is impecunious.

The government has not consulted widely enough on the provisions of the bill. Therefore for all those reasons the Liberal Party believes in practice the government is

unlikely to achieve the noble aims it set for this legislation.

We wish it well, but I do not think it will have the effect it could have had had it been drafted better through more consultation and by listening to the legitimate concerns of the industry involved in this industry on a day-to-day basis.

I will be interested in what the review brings up in 12 months time. I hope the bill is the catalyst for cultural change in the building industry so that fewer legitimate practitioners are inconvenienced and put out of business and out of work, but I hold grave doubts.

**Hon. GAVIN JENNINGS** (Melbourne) — I am pleased to speak on behalf of the government in support of the Building and Construction Industry Security of Payment Bill. I will be a happy member of the government if and when the bill is passed by the Legislative Council later today. Victoria is one of the few states in the country that does not have a legislative base to protect the rights of contractors, subcontractors and consultants to receive payments for their work. In fact, the sorry situation inherited by the Bracks government was that the only provisions that applied upon it coming to government were some provisions that loosely roped in the public sector of Victoria.

The bill is one of the essential pieces of legislation that the Labor Party took to the people of Victoria at the last election. The government adopted a method to deliver the legislation which is a hallmark of the operations of the government. It involved stakeholders in the preparation of the programs and of the legislative framework that applies in Victoria.

The success of the task force established by the government involving various stakeholders is testimony to the consultative way the government goes about its business. Under the stewardship of the honourable member for Mitcham in the other place the task force brought together a number of major stakeholders in the construction industry. They included the Office of Housing, the Airconditioning and Mechanical Contractors Association of Victoria, the Housing Industry Association, the National Electrical and Communications Association, the Master Plumbers and Mechanical Services Association of Australia, the Civil Contractors Federation, the Property Council of Australia and the Victorian Employers Chamber of Commerce and Industry.

Those peak bodies came together to work with a number of representatives of individual companies that included Leighton Properties Pty Ltd, Actrol Parts and

WT Partnership, quantity surveyors, and representatives of the trade union movement who were most affected by the exercise, in particular individuals representing the Construction, Forestry, Mining and Energy Union, John Cummins and Ray Hallett, and good solid citizens from the Communications, Electrical and Plumbing Union, Dean Mighell and Earl Setches. They took to their task and delivered the goods to the people of Victoria and provided the basis by which the government could prepare the legislation that is before the Parliament today.

I am pleased to put on the public record that the key recommendations of the task force received the broad support of all those stakeholders and ensured that the fundamental aspects of the bill were well understood, considered and well supported by all the stakeholders who were represented on the task force.

I outline to the house the major purpose of the bill, which is to ensure there is an entitlement for progress payments for persons who carry out building and construction work in the state and who provide related goods and services under construction contracts. It is the government's intention to ensure that there is no longer the inequitable practice that we have seen in the building and construction industry whereby many small contractors were not paid on time or not paid at all for their work. That is a blight on the prevailing employment practices and contractual arrangements applying in the construction industry throughout Australia and, up until now, have not had a legislative framework to be dealt with within the Victorian jurisdiction. To my mind that is the greatest outcome achieved by the honourable member for Mitcham in the other place and his task force.

In fact, this was identified in the other place as part of the watershed of the electoral tide that turned in favour of the Labor Party during the last term of the Kennett government. In his contribution during the debate on this bill in the other place the honourable member for Mitcham said that when he was doorknocking for that important campaign in the Mitcham electorate he came across a number of victims of this practice who implored him to ensure that if a Labor government was elected the Labor Party would rectify this lack of legislation and of processes to ensure security of payment. The honourable member relayed a sorry story in his contribution. He said that after his task force had concluded its work ensuring the preparation of this legislation he contacted the subcontractor whom he came across during the course of that election campaign to discover that he had not received his payments in a timely fashion and had been taken to the wall

financially, with the sorry conclusion that he lost his house.

We have heard many similar stories as many subcontractors and contractors use their own homes as security to underwrite their contractual arrangements in the building and construction industry. It is a sorry history and not an isolated case, and is something that affects all electorates in the state. All honourable members of this place would have a number of constituents who have experienced considerable difficulty because of the imprecision of payments in the construction industry. The lack of precision and timely payment is a statistic that is difficult to identify and quantify when people go to the wall financially at great personal cost. It is a great disappointment that the royal commission inquiring into the construction industry has not responded appropriately to an evaluation of the security of payment issue. It appears to be a blind spot in the consideration of the royal commission, and perhaps members of the government do not find that surprising given that we were dubious about the creation of the royal commission in the first place and regarded it as a political stunt leading up to the last federal election — a stunt that the head of the royal commission commented on as recently as yesterday, when he castigated the federal government, among other parties, for not complying with the terms of reference of the royal commission by providing a submission representing the views of the commonwealth government. That extraordinary report issued yesterday indicates the federal government does not take this issue seriously, but established the royal commission in the climate of a federal election hoping to add to the degree of anxiety, intimidation and pressure placed on the labour movement leading up to the last federal election.

I hope that before its conclusion the royal commission will address the issues of security of payments and occupational health and safety and the appalling track record within the industry of workplace deaths; and that the industry, the commission, and all parties in this place face up to the reality of workplace death and injury and realise their responsibility to turn around that very sorry situation. A total of 32 deaths occurred in Victorian workplaces last year.

Those will be the arguments that underpin the government's case on a bill that will be before the house shortly, so I will not err on the side of anticipating the debate that may take place. However, I certainly encourage all members of this house to make themselves aware of that issue and the concerns about workplace death and injury in this state.

I also urge the commission to start facing up to its responsibility to ensure that it provides appropriate protection for industrial rights and that the obligations of all those in the industry to apply the prevailing industrial award, enterprise bargaining and industry agreements are met.

I will be pleasantly surprised if the royal commission lives up to the expectations I have placed on the public record today. I am mortified that the commission appears to be embarking upon a process to make workers — the small people in the industry — accountable. As recently as yesterday the commission put pressure on an occupational health and safety trainer who works in the Construction, Forestry, Mining and Energy Union, yet it is very reluctant to make some major corporate entities or indeed the commonwealth government accountable. There have been many sorry stories of fear and intimidation applied by bosses within the industry, and I hope the royal commission pays some attention to that when issuing its report.

As I have indicated, that has been a blind spot in the royal commission's considerations but not in the view of the government. This government has been prepared to consider the recommendations of the task force and to implement them through this proposed legislation. The government has been particularly mindful of the current legislative framework which has resulted in lengthy delays in civil jurisdictions in this country in settling payments, and has attempted to put in place a mechanism that will speed up the processing of those claims and allow for independent adjudication of the validity of claims and the maximum resolution of disputes.

The government has used the New South Wales Building and Construction Industry Security of Payment Act 1999 as a template for the proposed legislation. The bill provides an opportunity for progress payments to be made within the terms of a contract even if those progress payments are not specified within the contract, but it does not necessarily override progress payments if they are a feature of the contract in question.

The bill does not overstep or overstate its potential to guarantee payments but it provides a more secure footing and reliable process for those claims to be pursued by providing for payments to be made under two streams: those that fall under the definitions in the act of 'construction work' or suppliers of 'related goods and services'.

Clause 4 in part 1 of the bill has a fairly broad definition of 'construction contract'. Clause 5, headed 'Definition of "construction work"', ropes in a number of elements which include construction, alteration or repair, including demolition of any works forming part of land including roadworks, buildings, railways, and drainage construction.

Clause 6, headed 'Definition of "related goods and services"', ropes in those which are supplied under construction contracts, such as engineering, landscaping and technical and advisory services that relate to that construction work.

There has been some play in Parliament about issues that are excluded from this piece of legislation, and I will talk briefly about the types of contracts that are not included within the scope of the bill. They fall into a number of categories: firstly, those that would be retrospective. The government seeks to apply this legislation prospectively rather than retrospectively, so any contract that is entered into before the commencement of the act will be excluded. It excludes those that are covered specifically by an employment contract. This is an important dividing line in the definition between the employee–employer relationship or the relationship based upon contracting or subcontracting. It is a fairly obvious distinction. Given that there are profound implications for taxation and other regimes, it is important to replicate that division in the application of this bill.

The bill does not cover contracts or work that is undertaken outside Victoria, contracts which form part of insurance or loans or guarantees, and matters that are covered by domestic building contracts. The reason it does not cover those contracts is because it is the intention of the government to run in parallel a system which operates under the Victorian Civil and Administrative Tribunal (VCAT) to allow for those claims to be pursued there.

So the rule of thumb is that if there is a current pre-existing right to pursue those claims under the Domestic Building Contracts and Tribunal Act through VCAT that right is maintained. While it is true that provisions governing the VCAT building list process deal primarily with home owners taking action against builders in the event of inadequate work, the VCAT provisions currently cater for an opportunity for contractors and subcontractors to work out disputes over payments. It is clearly the intention of the government not to diminish the roles and responsibilities of VCAT but to work in parallel consistently with those existing provisions and to add an additional process for work that does not fall within

the domestic building contractual arrangements. When it is enacted this legislation will provide a statutory entitlement for contractors to receive progress payments for their work. Clause 9 indicates that those progress payments will be made every 20 business days.

The government has recognised through the task force that elements within the industry say that this is an overly regimented regime, particularly for projects that may be of a short-term nature or may have part-payment provisions within them. If they are satisfactory to the parties concerned and there are milestone payments agreements more appropriate within the term of the contract the parties will not be prevented from making them.

This provides the legislative benchmark. Should those arrangements not be satisfactorily entered into between the parties then the part-payment provisions would be enforceable through this legislation.

Part 3 of the bill deals with the procedures for recovering those progress payments and sets out the procedures for making a payment claim; it provides the head of power for the adjudication of disputes and the appointment of adjudicators; it establishes the head of power for a claimant's right to suspend work in certain circumstances; and it describes the circumstances in which claimants may seek recovery from the principal contractor.

From the government's perspective, the beauty of this scheme is that it is being introduced not with a heavy bureaucratic hand but rather with a discernible lightness of touch in terms of both a regulatory model and the establishment of bureaucratic control. The administrative arrangements by and large will operate on a user-pays principle in effect and will not require a large bureaucracy to underpin them. The government is confident that the scheme will be simple to use and that the demarcation of responsibilities between this process and the VCAT processes will be clear and easy to use.

The government has indicated that it has willingly undertaken to review the effectiveness and efficiency of the act within a 12-month horizon and to establish whether it has succeeded in turning around the culture in the building and construction industry to provide for timely payments and to ensure that the definitions that underpin this act and the way in which the legislation is constructed work in practice.

We are confident that the bill has been put together in such a way that contractors can use the adjudication system when required. A relatively narrow scope for

consideration of the adjudication process has been provided, and by and large issues beyond payment will not be considered by adjudication, with the exception of an evaluation of an allegation of defective work. Otherwise, issues such as set-offs and cross-claims will not be permitted.

We have a degree of confidence that the process will work in practice. If in the interim between now and when the review takes place in 12 months time it appears that there are problems with the implementation of the scheme across the state the bill provides the Building Commission with an opportunity to issue practice notes to the industry. If and when there are any problems with implementation the commission will provide guidelines to the sector to assist either parties on an individual basis or the sector as a whole to come to terms with the intent of the legislation and the practices and procedures the government expects of the operations of the new legislation.

In conclusion, I congratulate the present Minister for Planning in another place, who has taken carriage of this legislation. A moving corollary of the minister taking carriage of this legislation is that her dearly departed husband, Jock Rankin, played a significant role on behalf of the Property Council of Victoria in the preparation of the recommendations of the task force. I suggest it is a nice testimony to his contribution to the state of Victoria, the property sector and the building and construction industry in Victoria. I pay tribute to his bravery and the bravery of the Minister for Planning in another place in taking this issue forward.

I also congratulate the previous Minister for Planning in another place, who introduced the task force, and the honourable member for Mitcham in another place, who provided appropriate direction to the considerations of the task force. He was with this legislation from the beginning, from the very kernel of an idea in terms of the recognition as he was doorknocking in his election campaign in Mitcham that there needed to be legislation in Victoria to address this important issue, right to the end of seeing it through.

I am pleased that it again demonstrates that the Bracks government lives up to the promises it took to the people at the last election. It has adopted a method of consulting appropriately with all stakeholders, brought all the parties together in support of this legislation and delivered the bill to the house. I heartily commend it to the Legislative Council.

**Hon. E. J. POWELL** (North Eastern) — I am pleased to speak on the Building and Construction Industry Security of Payment Bill on behalf of the

National Party and put on record that it will not be opposing the bill.

The main purpose of the bill is to provide for entitlements to progress payments for persons who carry out construction work or who supply related goods and services under construction contracts.

Clause 5(1) of the bill gives a very broad definition of construction work under this act. It says that ‘construction work’ means any of the following work:

the construction, alteration, repair, restoration, maintenance, extension, demolition or dismantling of buildings or structures forming, or to form, part of land —

whether it is permanent or not. Clause 5(1)(b) includes:

... walls, roadwork, powerlines, telecommunication apparatus, aircraft runways, docks and harbours, railways, inland waterways, pipelines, reservoirs, water mains, wells, sewers, industrial plant and installations for the purposes of land drainage or coast protection;

As you can see, it is a very broad definition of building and construction. Clause 5(1)(c) refers to:

... heating, lighting, airconditioning, ventilation, power supply, drainage, sanitation, water supply, fire protection, security and communications systems —

and clause 5 goes on to bring in other areas included in the bill.

Clause 6 is headed ‘Definition of “related goods and services”’. Goods are defined as:

- (i) materials and components to form part of any building, structure or work arising from construction work;
- (ii) plant or materials (whether supplied by sale, hire or otherwise) for use in connection with the carrying out of construction work.

Services are defined as:

- (i) the provision of labour to carry out construction work;
- (ii) architectural, design, surveying or quantity surveying services in relation to construction work;
- (iii) building, engineering, interior or exterior decoration or landscape advisory or technical services in relation to construction work.

It is a broad spectrum of what is called building, construction, and services and goods provision.

The bill also establishes a right to receive progress payments in relation to construction contracts and establishes a process for claims for those payments. Non-payment or slow payment in the building industry has been a big issue for some time and causes great

hardship to many small businesses, more particularly those in single ownership and those who have a few employees or run family businesses. If a big company bankrupt or refuses to pay, those small companies down the line will not survive and may have to go into bankruptcy.

As the Honourable Gavin Jennings said, the government made an election commitment to establish a task force and bring together the stakeholders, such as owners, builders, subcontractors and unions, to look at the problem of payment security in the building industry in an effort to come up with solutions and make recommendations to government.

The Victorian security of payments task force, chaired by the honourable member for Mitcham in another place, was created in 2000 and was comprised of some 18 members. The final report was delivered to government in February 2001, and we are debating it in this place some 15 months later. At the briefing I asked if there were any country members of the task force, and I believe the answer was no. I urge the government when looking into issues that affect rural and regional Victoria to ensure that representatives from rural and regional Victoria are members of those committees or advisory boards or whatever body is making decisions on behalf of country Victoria, because such issues are important to us.

The task force report contains 30 recommendations, 15 of which have been accepted by the government. It will be interesting over time to see what happens to the other 15 recommendations. Maybe the government will look at introducing them at a later date.

The task force also acknowledged that the legislation covering contractual payment reforms and the establishment of a periodic payment dispute resolution process goes only some way to addressing security of payment, and that much more needs to be done to fully address the problem. Some of the main issues addressed in the report are encouraging, such as encouraging higher skill levels in the building and construction industry, a more rigorous registration system, and enforcement of standards within the public and private sectors. That will help to make the environment more conducive to security of payments in some way and to ensure that the larger building companies understand the impacts of their non-payment or slow payment on smaller groups.

The report also states that legislative schemes have been introduced in New South Wales, Queensland and the United Kingdom to overcome similar problems regarding payment security or lack of payment. Laws

are also proposed in New Zealand and Western Australia. The task force sought advice from senior public servants in New South Wales and Queensland, and the impact of those talks can be seen in some of the recommendations.

The task force recommended the introduction of legislation reflecting the New South Wales Building and Construction Industry Security of Payment Act 1999, but, I understand, as the Honourable Peter Katsambanis said, that the legislation will be reviewed because there are some problems with it.

We were informed at the briefing that there were some 50 adjudications last year. It would be interesting to know how many of those went through the system.

In a letter to the Minister for Planning, the Housing Industry Association (HIA) said there are problems with the New South Wales legislation and that there are proposals to reform it, and asked the Bracks government to look at its reforms before the bill was debated. Obviously that was not the government's intention, and when it reviews the legislation in 12 months it may examine issues that came out of the New South Wales legislation to see if better legislation can be introduced. It would be helpful if New South Wales could inform the government of the errors in its legislation so that Victoria can pick up on that in its legislation.

It is also interesting to note that there is no specific data or information about the incidence of bankruptcy, non-payment or slow payment. It would be fair to say that many people do not give out that information. Much of what the report was relying on was anecdotal evidence.

When they consulted on the bill on its initial reading, members of the National Party could not see anything that we were concerned about, but I sent letters, the bill and the second-reading speech to a number of people in the industry. We also had briefings from officers of the Building Commission, and Mr Robert Bradford twice gave the honourable member for Wimmera in the other place and me a briefing. He has since left the Building Commission and now works as a special counsel for the law firm Deacons. Mr Paul Vicari from the Building Commission was also at the briefings. I thank them for answering a number of our concerns, and they ensured that we understood the bill. Often we have questions from our constituents that we may not have thought of, and we were able to ask the appropriate questions.

I received a response from Stan and Yvonne Jezewski, builders in Shepparton who carry out domestic work

and are covered under the Domestic Building Contracts Act 1995. They believe subcontractors need some form of protection and the right to progress payments.

I also sent the second-reading speech and the bill to R. J. and J. M. Whyte of Kialla, electrical contractors, who had no problems with the bill and were pleased to see that finally the issue is being addressed.

Tony Villani, a building contractor in Kialla, had no problems with the bill and was appreciative of an opportunity of having some input into the legislation.

One of the big firms in Shepparton that I sent the information to was Hansen and Yuncken, which sent a response off to its Melbourne's office raising a few concerns about the fixed days in the bill. For example, clause 21, headed 'Adjudication responses', states:

- (1) The respondent may lodge with the adjudicator a response to the claimant's adjudication application (the "adjudication response") at any time within —
  - (a) 5 business days after receiving a copy of the application; or
  - (b) 2 business days after receiving notice of an adjudicator's acceptance of the application —

whichever time expires later.

Clause 21(3) provides:

A copy of the adjudication response must be served on the claimant.

Clause 29, headed 'Claimant may suspend work', states:

- (1) A claimant may suspend the carrying out of construction work or the supply of related goods and services under a construction contract if at least 2 business days have passed since the claimant has caused a notice of intention to do so to be given to the respondent under section 16, 17 or 27.

The concern in the bigger construction industry was that an authorised person may not be on site or in the office to be served with those notices with intention to suspend work.

I am not sure whether the government is able to make some sort of clarification of that, but I pass on the concerns of larger construction companies about their time lines where, after giving maybe two days notice, work can be suspended. This may be due to the fact that the person they need to be giving the notice to may not be on site or may not be in the office due to the number of holidays or rostered days off that they have in the building industry. There may be a number of reasons for this. The larger construction companies did not have

a lot of issues with the bill but the issue of specified days was one concern that they found.

As a person who has been in small business, I know how hard it is to collect money that is owed to you. My husband and I have an auto-electrical business, which my husband still runs. Of course I am no longer in the business, but we understand at first hand the ramifications of people owing you money that you are unable to collect. The ramifications go right through the area in which you work. When I used to send out the accounts and reminder notices there was one really interesting reminder notice that showed a little wheel which said, 'If you pay me, then I can pay him, and he can pay him, and he can pay him'. It is a wheel that shows quite specifically how people need to be paid and tells them, 'If you do not pay your person up front, then that person gets a bad reputation for not being able to pay their bills on time as well'.

As the Honourable Peter Katsambanis said in his presentation, clause 13 of the bill supposedly bans the issue of pay-when-paid provisions in the contracts. But the bill does not actually use the word 'bans'; the words in the bill are 'has no effect'. The minister's press release used the words 'outlawed' or 'banned' in relation to the pay-when-paid provisions, but the words in the bill itself could be misconstrued because they just say 'has no effect' rather than 'is banned'. I believe the government's intent is to ban the practice, but in reality that may not be the case.

In 1996 the former government banned the practice of pay when paid on all government contracts. It was a coalition reform to the industry that all government contracts are no longer able to use that pay-when-paid policy. The pay-when-paid policy does have a huge effect on big business, particularly the issue of slow payment or non-payment. As I said before, fixing that up is hopefully what this bill is intended to do. It is not just about security of payment; it is making sure that big business pays smaller businesses, whether they be subcontractors, contractors or consultants, and that they are paid on time so that they can buy their products and continue to work.

At the briefing I raised a concern about the increase of paperwork for small businesses and I was told that there would be no increase. In fact, this legislation will only come into effect when payment is not agreed upon or if there is a holding-off of the payment. Many builders, contractors and subcontractors have their own contracts, and that will not be changed. Hopefully if those contracts are suited to them and they work out well then this legislation will not even come into effect and will act only as a safety net. That is important.

I was told by a number of small builders that usually there is not a periodic or progressive payment; they usually pay at certain stages of the building. For example, in the case of electrical contractors, when they finish a certain portion of their work they get paid and when they finish the rest of it they also get paid. That is usually an agreement made between all parties involved in the building and is accepted by those people. They see no need to change, but I guess this bill will only come into effect if that arrangement falls down.

Division 2 of the bill provides that if there is a dispute about payment an independent adjudicator will be appointed. The selection of the adjudicator can be agreed to by both parties, but if they cannot agree then the Building Commission can appoint someone. The adjudicator will then decide on what payments are due and, if there is still a dispute, payment must be quarantined or put into a trust until the dispute is resolved. This will guarantee that the money is paid. That is important because so often when there is a dispute and one of the builders goes bankrupt, the person who is disputing the amount of money owed or the length of time that they are waiting to be paid does not have any access to that funding if the person owing the money goes bankrupt. A certain amount of money will be quarantined during a dispute and that money must be paid when the dispute is finalised in favour of the person to whom the money is owed.

The bill does not deal with domestic building contracts or contracts between a builder and a building owner. They will still come under the Domestic Building Contracts and Tribunal Act 1995. As we heard earlier, any dispute process will still go through the Victorian Civil and Administrative Tribunal. I was also advised that spec homes come under this act as long as the builder does not reside in the house being built.

Like other members, I received a memo from Tony Robinson, the honourable member for Mitcham in the other place and the chair of the task force, stating that the government has decided not to amend the bill. As we heard earlier, the Housing Industry Association and the Air Conditioning and Mechanical Contractors Association of Australia Ltd (AMCA) had some concerns, but parliamentary counsel advised government that there was sufficient certainty within the Victorian definitions to ensure that the adjudication procedure does not get cluttered with set-offs and counterclaims that have nothing to do with the central payment issue. The government was also advised that the Building Commission has the power to issue practice notes. As we heard earlier, it will assist the adjudication procedure if an issue arises about what can and cannot be admitted.

The government has said it believes it has addressed the concerns of HIA and AMCA but will review the operation of the act 12 months after its introduction. If there are concerns, hopefully the act can be amended. This review could also pick up any flaws in the act or, as I said earlier, include any changes that may be made to the New South Wales act.

In closing, the National Party supports any bill that supports and protects small business. The effect of this bill is to make sure contractors, subcontractors, consultants and those who work or provide goods and services in the building and construction industry receive payment for their work or services. I wish the bill a speedy passage through the house.

**Hon. G. D. ROMANES** (Melbourne) — I am pleased to contribute to debate on the Building and Construction Industry Security of Payment Bill, which is a landmark bill for Victoria. It addresses entrenched practices in the building and construction industry such as non-payment, part payment and slow payment practices to subcontractors and consultants and other service providers.

The reforms embodied in this bill, which are in an area that has enormous problems and that the Kennett government failed to address, are long overdue. They are a response to an election commitment made by the Australian Labor Party and now delivered to the people of Victoria in the bill.

I first heard of unscrupulous practices in the building and construction industry a few years ago when speaking with a colleague at a previous workplace whose husband is an architect and is very involved in the building and construction industry. At the time I was appalled to learn of common practices which threatened the viability of small businesses, subcontractors and service providers due to the part payment, slow payment or non-payment by the head contractor because those smaller businesses might be at the end of the payment chain. In some cases that happens because the builder may be in strife with poor cash flow or poor financial management. In some instances a builder may operate on a system where the builder is paid on a 35-day invoice schedule but the subcontractor is paid on a 60-day schedule. Then there is the nefarious practice of 'paid if and paid when', a circumstance in which one person's payment is dependent on another's payment. All these practices amount to situations where one business is using someone else's money to keep itself afloat and are therefore reprehensible. Often it is the small businesses and small subcontractors operating on very small

margins that cannot shoulder the burden of bad debts and may go under in such a system.

I am aware that industry itself has at different times tried to find ways to deal with these problems. Under a code of practice developed in the 1990s there is a common practice for builders to use a withholding payment to get a contractor to perform better or to fix up defects. Most contracts, while providing for progressive payments, would embody a concept of retention and retain — that is, retain a little, maybe about 5 per cent, in a trust account or by bank guarantee until the end of the job time, at which time half of that amount would be released to the contractor and half kept for up to 12 months until the warranty liability period for defects had passed.

Often, however, disputes arise about defects and who should pay for them. The smaller contractors in many instances do not have the resources to sue and may end up forgoing such final payment. In such cases bigger companies may benefit from bullying small subcontractors into acceding to the situation.

A number of clients and builders have tried to address the situation with a voluntary system whereby statutory declarations are provided monthly with the progress claim for payment. That system limits the potential damage to one month's money. Overall, however, there is a huge problem for participants in the building and construction industry that comes with a lack of certainty of payment for jobs done. It has hovered like a scourge on the industry.

To address these problems the Bracks Labor government put in place a security of payments task force under the chairmanship of the honourable member for Mitcham in another place. The task force was given the job of looking at legislative and non-legislative options for remedying the difficulties faced by the industry. The task force brought forward 30 recommendations, about half of which have been incorporated into the bill. The recommendations of the task force were strongly informed by Queensland and New South Wales legislation, which has been in place for some time and which gives greater access to redress in the event of non-payment in those jurisdictions.

Some of the key provisions are found in part 2 of the bill, 'Rights to progress payments', including a right to progress payments for construction work carried out and the provision of goods and services under a construction contract. Clause 13 makes provision that a pay-when-paid practice will have no effect and is therefore effectively banned. It is equivalent to banning pay-when-paid practices and it is the government's

intention that that practice be banned within the industry.

Part 3 outlines processes for recovering progress payments and provides for claims and payment schedules, adjudication of disputes, claimants' rights to suspend construction work or supply of goods and services after at least two days from the time a notice is given to a respondent seeking payment for goods and services rendered.

Part 3 also contains a recovery-from-principal provision which gives the right to and provides the procedure for a claimant to obtain payment from a principal in respect of money owed by a respondent. A process is outlined for obtaining a debt certificate from a court and serving a claim on a principal in the event of non-payment from a respondent.

Division 5 contains general provisions regarding adjudicators. It empowers the Building Commission to authorise or withdraw authorisation of a person to nominate adjudicators for the purposes of the bill. This is to be done with regard to ministerial guidelines.

Clause 46 provides for the exclusion of liability of an adjudicator for anything done in good faith in the exercise of power or discharge of a duty. Clause 51 further states it is the intention of clause 46 to vary or alter section 85 of the Constitution Act 1975.

Division 6 contains provisions to ensure that the bill does not limit any other entitlement under a construction contract or any other remedy for recovery entitlements. Part 4 deals with a range of miscellaneous provisions including clause 52, which provides regulation-making powers.

The task force recommended legislative changes to introduce reforms into the building and construction industry, but it also put forward a number of recommendations — namely, recommendations 16 to 30 which relate more to policy and government areas of influence and administration. Some of those issues are broader than the security of payments and go to the basis of building regulatory functions. They include a range of issues, such as the rigour of the registration system, and ask questions about whether Victoria should consider a more comprehensive registration system that gives more consumer protection and incorporates factors such as poor payment practices into the criteria for registration or deregistration in the building and construction industry.

Other issues included a recommendation to review and strengthen the government's ministerial directions and code of practice, and the consideration of formalising

links between the Building Commission and agencies such as the Australian Securities and Investments Commission to ensure maximum advice about non-performing companies and individuals within the industry. The task force also raised issues about monitoring and training in project management and other skills, and highlighted the assistance that such training may provide in reducing the level of abuse of the cash-flow system, particularly by making subcontractors more aware of their rights.

Many of those recommendations sit well with the Building Commission's desire to play a stronger role in facilitating change and improving standards in the building and construction industry. They are currently the subject of works in progress, and further investigation and analysis is continuing with regard to those matters raised in the task force's report.

At the end of 2002 the government working party will deliver further recommendations to the minister on other issues regarding further improvement to practices in the building and construction industry and more generally in the area of building regulatory control.

The legislation comes with the backing of industry and unions that were involved with the government in the task force which considered the positive impact of such measures in other jurisdictions in terms of addressing abusive practices in the building and construction industry. The opposition has expressed some scepticism about whether the bill can achieve the desired cultural change that it attempts to bring about, and I would be only too ready to acknowledge that reforms and changes of culture and behaviour in any sector are not easy to achieve and demand considerable effort from all involved. In an idealistic world we might hope that justice for all the participants in the building and construction industry should bring its own rewards to the individuals and companies involved, but that is a rosy view of the world. I hope there are sufficient compliance measures and incentives in the bill for the building and construction industry to improve the ethics and reputation of the industry.

A claim has been made by the opposition that the government should have waited for the outcome of the review of the legislation and practices in New South Wales, but that would have delayed for far too long the implementation and putting in place of the reforms we are dealing with today in the bill. The government has grasped the nettle; it is addressing something that has adversely affected many individuals and small businesses throughout Victoria. These are changes that are long overdue and have been welcomed by parties from all sectors, and I congratulate the ministers

involved, the chair of and the participants in the task force and all others who contributed to this very important legislation. I wish the bill a speedy passage.

**Hon. K. M. SMITH** (South Eastern) — It is a pleasure to join the debate on the Building and Construction Industry Security of Payment Bill. I am probably the only person in this chamber who has had experience in the building industry, and from time to time I have suffered financially as a result of non-payment by builders for works that I have done. During my contribution I might mention some of the builders who were miserable about paying and some of the tricks that builders would use to defer payment to people in the plumbing trade, as I was. Today is settling day!

I have had nearly 30 years experience in the building industry, from my apprenticeship to running my own business. I have worked for a variety of people from all walks of the building industry, from small renovation jobs to working on large construction jobs. I thank God I never worked on any of the big buildings in Melbourne because it would have been horrific to have worked under the control of the building unions, which as we know are being investigated along with some of the builders in that industry.

It is nice to finally see that somebody is doing something about the building and construction industry and about ensuring that payments made to subcontractors particularly and suppliers are being addressed, because it has always been a problem.

As I looked through the bill I saw a million loopholes that the government has built into it for the builders who will try to play the game. In fact, the bill has built into it probably more loopholes than previously were encountered by builders and subcontractors in disputes they would often have.

One glaring thing I noticed when I read the bill is that if a builder decides he will not pay and the dispute goes to adjudication there is no requirement that the money be paid into a trust account of the adjudicator to be handed out at the end of the adjudication. The bill certainly mentions a trust account, but that is a factor after everything has been determined. I noticed that the government builds into the legislation a number of time frames.

For the sake of the exercise, I will use the example of a builder and a plumber in dispute. If there is to be an adjudication, firstly a claim must be lodged by the plumber against the builder for a progress payment to be made. The first loophole is whether the progress

payment is to be made within 10 working days as set out in the bill or whether it is to be as set out in the contract. The builders will be able to use a contract to extend the amount of time before they actually have to make that progress payment. Most builders would probably make their payments within 30 days or even 45 days.

That becomes a problem to start with because builders will be stalling for anything up to 45 days under the terms of their contract. You can bet your life that that stipulation will be built into most standard forms of contract. The Housing Industry Association (HIA) and the Master Builders Association of Victoria (MBAV) contracts will specify certain periods of time that will suit the builders but not necessarily the subcontractors.

The claimed payment has to be made within 10 days or 45 days, whichever is determined. If that payment is not made, the matter then has to go to adjudication. The time periods set out in the bill require that the parties to the dispute have to agree to an adjudicator. That is fine, so long as they agree.

Then we come upon loophole no. 2. They can argue about who the adjudicator should be or about the adjudicator's qualifications and whether he or she will be suitable to hear the case and so on. Then the adjudicator has to go through a lot of paperwork within five days of the notification. He has to notify both the claimant and the respondent — in my example, the builder and the plumber. The adjudicator has to be willing to take on the case and if so, an adjudication follows. A time frame is set for the amount of information that needs to be supplied.

The builder has an opportunity to read what the plumber has said about the claim and whether payment should be made. He will then decide whether he will argue the case or whether he will pay, and whether he will pay it in full or in part, which would again stall things. In the meantime the adjudicator is sitting in his office waiting for the time frames set out in the bill to expire before he can take the next step.

That creates problems because a plumber could be sitting and twiddling his thumbs. He may not have enough money in his bank account and does not feel that he can again beg his bank manager for funds to pay his staff or suppliers. He would be waiting for the adjudicator to determine whether he will hear the case because a legitimate claim is being made by the plumbing contractor. If he does not determine that there is a case, a builder may wait for the total time as specified to expire and then make a payment to the plumber. He may make only a part payment and say

mistakes have been made on the job and he could withhold funds from the plumber.

The adjudicator would then have to determine whether that is true. He would have to make site visits and talk to the plumber to determine whether there is defective work on the site and whether money should be withheld.

As I have tried to say, the builder will use loopholes. Not all builders are bad; a lot are fair with their tradespeople and try to work with them. That is how the industry works. But the problems start when you get the bodgie builders, and I have known a lot of them. They will use every loophole they can find to defer payment to a contractor.

I noticed that the bill contains a provision about the right to progress payments. Clause 9(2)(b) states:

if the contract makes no express provision with respect to the matter, the date occurring 20 business days after the previous reference date or (in the case of the first reference date) the date occurring 20 business days after ...

That relates to the reference date of the construction contract. That means the plumber has to wait for four weeks, which is a long time.

I relate that to my experience in the plumbing industry. When I was a plumbing contractor and worked for a number of building companies we were doing 10 new houses a week. That involves a fair amount of money for a small contractor like I was.

We had to put in our quotation on a particular type of house using the Master Plumbers and Mechanical Services Association standard form. We were given acceptance of our contract on a MBAV standard contract, which then overrode our contract. If we wanted to take up the contract it would be on the basis of what the MBAV or the HIA wanted, which was structured in favour of the building contractor and not so much to the benefit of the plumber.

These days with concrete slab construction a lot of work is done under the slab before construction really gets under way and the building starts to rise above ground level. We would normally put in for our first progress payment for work done under the slab and for the water tapping on the property. Then we would wait for the frames of the houses to be erected. Then, as a group we would hit that particular site and do a hot and cold water rough in on the site. We would probably put the roof or spouting around the house and rough in the gas around the place. That involves a fair amount of money. We would put the roof on and probably do the

flashing on the roof. If the roof was metal, it would have to be screwed down.

Then we would have the water connected and tested under pressure. We would probably also be looking at putting a pressure test on our gas connections.

It may well have been up to three weeks after we had put in our first claim, which we would put in reasonably quickly. So we would have our second progress payment that would make up probably two-thirds of the price of the construction job. That may have occurred within a maximum of three to four weeks.

My terms with the builders would be 30 days and, as I said earlier, I was working on up to 10 houses a week. In one week I would be making progress payments on two-thirds of the cost of 10 houses, and because of the way work on the houses rotated I would be putting in claims for work on houses that we had completed over that period. So we were in credit for the part payment of 10 houses a week, which was about 40 homes.

We would also do the stormwater drains and sewerage drains, so the plumbing, the drains, the roof and the hot and cold water systems required to complete a house amounted to about \$5000 per home. That amounted to \$200 000 a month. If the builder stalled payment for a few weeks after that — that often occurred where a builder would say, 'We will pay you after we get paid', and I am pleased some recognition is given to that in the bill — it could be up to \$400 000 that I was owed after two months. Even if this legislation were in force and I applied for some payments I could be legally fobbed off by the builders, if I can put it that way.

I always had a good relationship with my builders. I helped them out when times were tough; I was on the job and would always help them out. However, at the end of the 1980s I had three builders go broke on me at the one time. Occasionally in the building industry you would get a builder who would go broke on you — normally one builder at a time — but I had three of them go broke on me, so I was out of pocket \$200 000 in the early 1980s. I could have walked away from it because I had a company and there were not the stringent requirements that there are now on directors. I could have gone bankrupt, but I had my suppliers and staff who had worked with me for a long time. My wife and I were put in the position of having to sell all our assets, including our family home, to pay the people I had dealings with. The builders did not suffer at all — they walked away from their commitments. They had a temporary lull in work before each of them started up again under another name and probably, over the

years — although I was not involved with them after that — shafted a few other people in the industry.

It was not only Ken Smith the plumber but the electricians, concreters, plasterers and other tradesmen who worked on the job and the suppliers of the building companies who suffered. That is why I say the legislation is welcomed. I got out of the industry for four years because I had had a gutful of it. You work seven days a week trying to create some wealth for yourself only to find it goes because some people walk away from their obligations. I think some builders had criminal intent in defrauding me and the other contractors who worked on these jobs by not keeping up with their obligations.

I re-entered the plumbing industry when I started work with the Master Plumbers and Mechanical Services Association. I had a different view of the industry at that time. My contracts were always up to date, and I made sure people kept their obligations. When people learnt that I had come back into the industry they asked me to quote for some new homes they were building. I was a good plumbing contractor and had a good reputation. I am not praising myself but just giving honourable members an understanding of the industry and the business I was running. I suggested to those people that I was more than happy to work with them again and that they should bring their plans to me and while there sign personal guarantees that I had made up. I was amazed that no-one came to my front door and said, 'Here are the plans. Give us some prices, Smithy. It's good to have you back in the industry again'. They knew they would have to give personal guarantees, as would their wives, and commit their homes so that if they went broke I would not lose my family home.

I applaud the government for the legislation but I also caution it because it has a large number of loopholes that the dodgy builders will use to their advantage. I note the government says it will hold a review in 12 months. It may be worthwhile looking at what New South Wales does with its review before reviewing this legislation, but it should not be left for too long because it may save a few contractors from suffering the financial pain that I went through when I was trying to bring up my family and create some wealth for myself.

As I said, I support the legislation, but I caution the government because the bill has a number of loopholes that at some stage will probably be abused by dodgy builders.

**Hon. D. G. HADDEN** (Ballarat) — I support the Building and Construction Industry Security of

Payment Bill. It gives me pleasure to make a short contribution on this bill because not only was it a pre-election commitment of the Labor Party but it involves an issue raised with me by two of my constituents who have been in the building and construction industry for more than 40 years. They raised the issue of security of payments with me in August 2000, about the time the then Minister for Planning, the Honourable John Thwaites in the other place, announced a review of payments in the construction industry. I raised the concerns of my constituents during the adjournment debate on 29 August 2000, so I am pleased that the bill is before the house today.

My constituents run and operate a commercial floor-covering business contracting to the construction industry and have done so since the 1960s, and they raised concerns with me regarding the security of payment within the building industry. The commercial floor-covering contractors had attended a pre-election luncheon at the Swanston Hotel on 10 September 1999 hosted by the honourable member for Mitcham in the other place, and as a result of attending that luncheon and raising their concerns through their experience of nearly 40 years in the industry they explained to me in their terms the hardships independent contractors and subcontractors in the industry have been operating under.

In simple terms Mr Coveney of Coveney Interlay explained it to mean that a builder deducts cash from the contract sum at the rate of 10 per cent in the dollar until 5 per cent in the dollar of the contract sum is reached. That amount is held until practical completion is reached and the builder — not always — is to then release held retentions to 2.5 per cent in the dollar of the contract sum. The builder holds the 2.5 per cent in the dollar until the defects liability period is finished, which my constituents pointed out could be for any period between 30 days and 104 months, depending on the contract terms. My constituents state in a submission: The builder does not have to inform us what he is doing with our moneys. Most often the builder will keep the funds in his cash flow. If it is a major builder it is highly likely he will invest our moneys in an investment scheme of some type. However, the builder retains all accrued interest.

Further, they state: if the builder goes into receivership or liquidation our moneys are normally kept by the appointed administrator and we are deemed to be an unsecured creditor.

My constituents pointed out that this is totally incorrect as they are our funds the builder has withheld.

As well as keeping the interest accrued on them.

As I said, I raised the matter on the adjournment debate in this house on 29 August 2000. At the same time the then Minister for Planning announced the review of payments task force which was chaired by the honourable member for Mitcham, then Parliamentary

Secretary, State and Regional Development. The task force was set up to cover a broad cross-section of industry stakeholders, if I can use that term. The task force was established in August 2000 and its members were required to report back to the then Minister for Planning at the end of January 2001.

The task force brought together owners, builders, subcontractors and unions. The members of the task force came from the Office of Housing, Leighton Properties and the Housing Industry Association, and included the chief executive officer of the National Electrical Communications Association of Victoria, representatives of the Construction, Forestry, Mining and Energy Union, the Master Plumbers and Mechanical Services of Australia, the Civil Contractors Federation, Dean Mighell of the Communications, Electrical and Plumbing Union, the Victorian Employers Chamber of Commerce and Industry, WT Partnership Quantity Surveyors, GHD, the Master Builders Association of Victoria, Actrol Parts, the Property Council of Australia — in particular the late Mr Jock Rankin — and the Assistant Building Commissioner, the Building Commissioner and others.

The task force took submissions, including those from my constituents to whom I have just referred; they were very keen to make their submissions, having had nearly four decades of experience of working in the construction industry. The various models were looked at and the task force chose the New South Wales model with some improvements to suit the Victorian construction climate.

I commend the task force and all involved and I also commend all those who made submissions to the task force. I especially commend the then Minister for Planning, the Honourable John Thwaites in the other place, for his initiative, and the chairperson of that task force, the Honourable Tony Robinson.

The purpose of the bill is to establish an entitlement of progress payments for contractors and subcontractors who carry out construction work or who supply goods and services under a construction contract. The bill also addresses delays in payment under construction contracts to parties who carry out constructional work or who supply related goods and services under those contracts. It also provides an adjudication process when a claim for progress payments is disputed to determine the payment due.

It is important to know that the previous Kennett coalition government had seven years to do something about supporting and reviewing the security of payments in the building and construction industry and

it did nothing. It did not act; it sat on its hands. Prior to the last election in 1999 the then Labor opposition made a commitment which resulted in the task force being formed in August 2000 and the bill before the house.

This government has acted in a very significant way. The bill is landmark legislation for this state. It is the start of providing security for those subcontractors and contractors who have for too long suffered at the hands of unscrupulous builders and operators higher up the chain who go bust and make everyone underneath go bust as well, which creates absolute hardship and often results in bankruptcies and losses of family homes quite apart from the emotional and social problems that flow from those matters.

Victoria is one of the few states currently without security of payment legislation to protect those contractors, subcontractors and independent contractors working in the building and construction industry, so this bill will certainly be welcomed out in the industry.

The bill creates a statutory right to periodic payment unless a separate agreed payment schedule features in the contract. A failure to pay in accordance with the schedule gives rise to a low-cost adjudication procedure, and a failure to comply with the adjudicator's determination gives rise to a right to suspend work, and penalty interest applies. The bill provides a further right to seek the outstanding payment from the principal. As I have said, the bill has received very broad support across a broad industry representation and its genesis is in the Labor government's task force chaired by the honourable member for Mitcham in the other place.

The bill also protects the adjudicator. A section 85(5) statement under the Constitution Act 1975 is provided in the bill, and that was made by the Minister for Planning in the second-reading speech of the bill in the other place. That statement is made pursuant to the Constitution Act as the bill alters or varies section 85 of that act.

The important part here is that an adjudicator is not personally liable for the exercise of his or her powers and duties under the bill, provided they are done in good faith, and an adjudicator must be in a position where he or she exercises those powers and duties without fear of litigation. Those protections are provided for in the bill.

The bill is a start. It will give certainty to subcontractors and independent contractors in the building and construction industry. It will not come into operation

until proclaimed which, under clause 2, may not be until 31 January 2003. Clause 7 (6) of the bill provides that it will not apply to a construction contract entered into before the commencement of that provision.

Importantly, the Building Commission will be providing briefings across the industry to all stakeholders as to the effect of the bill and the changes it will make to their operations. This will give the parties time to make any adjustments to their future contractual arrangements to reflect their new obligations and rights under the bill.

The bill is timely and has come after broad consultation and representation across the building and construction industry. It has its genesis in this Labor government, its task force and the former Minister for Planning in another place. I commend the bill to the house.

**Hon. C. A. STRONG** (Higinbotham) — I rise to speak on the Building and Construction Industry Security of Payment Bill, the purpose of which is to try and guarantee progress payments to subcontractors. It seeks to do this because there have been problems over many years of subcontractors and contractors receiving payments for work done. Payments for work done is easy to say but it is not always easy to judge and appropriately assess what is fair and equitable. As a consequence, over the years this issue has generated a lot of heat because subcontractors often think they are not being fairly treated by contractors, they do not get their payments on time or do not get what they deem to be the appropriate amount of their quantum. Likewise, contractors think that subcontractors have not done a proper job and do not deserve payment or have not done the work they have claimed for, et cetera.

I speak with some experience on this issue as a qualified engineer who practised in project management over many years. I can vouch that this is a problem fraught with many difficulties. It is all fine and dandy, simple and lovely for the government to say that it will legislate these problems away, but it is often very much easier to say and conceptualise than it is to achieve in practice.

One of the things that gives me a little heart about the bill is that it is basically modelled on the New South Wales legislation which has been in place for something like 18 months to two years. The reports I have received about the New South Wales legislation show that it has been relatively neutral in its impact. I have heard of no major victories, milestones or wonderful achievements, nor have I heard of any disasters that have befallen as a result of the legislation. From what I can understand, the act has been relatively

neutral until now. It does not seem to have advanced the situation enormously, nor has it seemed to cause disadvantage.

When legislation is brought in to regulate a particular activity or function, what happens 9 times out of 10 is that people are basically honest; they try to do their best to make things work and seek to abide by the legislation. In many cases they are caught by the legislation if they should inadvertently slip. It is fair to say that, although there are many recalcitrants in the building industry, by far and away the majority of people try and make the system work and it does work fairly well.

What is a bit of a worry with the bill is some of the exclusions. Basically it deals with major contractual works and major contractual relationships. I am glad that it includes architects, engineers and all the other subsidiary services that draw fees sometimes in difficult circumstances compared to contractors and subcontractors. It is good that they are covered. However, I see some fairly significant exclusions. Domestic building work is excluded. It is fair to say that the domestic building field is where you get most of the cowboys and most of the problems as a result of contractors who are not as well funded, solid, or as honest as you would expect.

Subcontractors have varying degrees of competence, skill and experience. As in recent times when there has been a fair bit of building activity, a lot of subcontractors who leave a certain amount to be desired come into the business. It is in domestic building work that so many problems arise. We have heard Mr Smith talk about his experience in plumbing work, most of which is in the domestic building area. It is an area where, as I have acknowledged, a lot of problems occur but which unfortunately is a major exclusion.

A lot happens in that domestic area which unfortunately is not covered.

Another area that is not covered is what is called the employee. Clause 7(3) states:

This Act does not apply to a construction contract to the extent to which it contains —

- (a) provisions under which a party undertakes to carry out construction work, or supply related goods and services —

and this is the important part —

as an employee of the party for whom the work is to be carried out ...

Who is a subcontractor and who is an employee is a grey area in subcontract work. Under taxation law many people who hold themselves out to be subcontractors are deemed to be employees. In many cases today the contractors provide most of the materials. Therefore in essence it is a fine line as to whether many of the subcontractors, who basically provide their labour, are in fact employees or subcontractors. For taxation, insurance and Workcover purposes many people who would see themselves as subcontractors are deemed to be employees.

I can see a rich area of dispute with the exclusion of employees. If I were a difficult contractor trying to get out of the application of this legislation I would hold that most of the subcontractors who work for me are in fact employees. There would be a significant amount of case law in both state and federal jurisdictions to establish that that was the case. Those are unfortunately some severe limitations on how the legislation would work.

It is also worth going through how the bill addresses the problem of people not getting progress payments on time or for the appropriate amount and how people would seek to ensure that they can overcome that problem. Clause 3(2) of the bill provides:

The means by which this Act ensures that a person is entitled to receive a progress payment is by granting a statutory entitlement ...

How is that statutory entitlement established? Clause 3(3) provides:

The means by which this Act ensures that a person is able to recover a progress payment is by establishing a procedure that involves —

- (a) the making of a payment claim by the person claiming payment —

they do that, anyway, today —

- (b) the provision of a payment schedule by the person by whom the payment is payable —

that happens today when people make a progress payment, and in many cases they make it under a schedule. The next provision is the crunch:

- (c) the referral of any disputed claim to an adjudicator for determination.

How does the adjudication work? Unfortunately, in many ways the bill sets in place a process which will not come to the aid of a subcontractor who faces a recalcitrant contractor. Most contractors and subcontractors are basically honest and seek to do the right thing, and the bill provides them with incentives to

do the right thing more rapidly and more fairly, but that is not where the problem with contractors and subcontractors lies — it is with the people who set out not to pay or to delay payment to their subcontractors, and so on.

The solution in the bill is to adjudicate for a determination of the payment. As well as that — and this is another area where the recalcitrant contractor will come into play — if, after going through the process of adjudication the adjudicator says, ‘Why didn’t you pay Smith Plumbing for the work that he did for you?’, the contractor could say, ‘Simply because he was no good; it was shoddy workmanship; I had to pull it up and do it again’. In such a claim a person can say, ‘I am not paying this man because he has not fulfilled his part of the bargain, either documented or implied’.

What happens in an adjudication situation? If the adjudicated amount for progress payment goes into some trust fund or similar arrangement while there is a claim for shoddy workmanship — some counterclaim by a person who says, ‘I am not paying this because it was no good’ — the money is rightly not paid if there is a counterclaim, and the whole business of the claim and counterclaim has to go through the court in the normal fashion, which may take 12 to 18 months or 2 years. In terms of wanting to frustrate the process, which is what the recalcitrant contractor would want to do, the first thing he would say is, ‘There was something wrong with the workmanship’. He may get an adjudication against him to make a payment but it does not help the subcontractor because his money is tied up pending the resolution of the issues of any counterclaim on the question of quality.

The bill then sets out how claims are to be made, including how often claims can be made, the period of payment, and the time for payment. In each case the bill provides that if a period is set out in the subcontract documents then that period for making a claim will rule, and it sets default times. When the claim can be made every 20 days, it sets a default payment time of 10 days. Therefore there is a period of 10 days from the lodging of the claim to the time when it is supposed to be paid. If the claim is not paid then it will go through the adjudication process which requires the appointment of an adjudicator between the subcontractor and the contractor who will appear before the adjudicator. They will lead evidence that they did certain work and will get into an argument about the quality of that work and why the money has not been paid.

Obviously a contractor would not go in front of an adjudicator and say, ‘Well, the reason I have not paid

this guy is because I do not feel like it’. Obviously he will make up some half-plausible reason why he had not paid, and that would go to the quality of the work and the counterclaim. As I said before, even though you might get an adjudication you might never get the money because it could be held up in some form of counterclaim.

The other absolutely beautiful part is that if there is an adjudication, how do you assess the amount of progress? Clause 10 states:

- (b) If the contract makes no express provision with respect to the matter, the amount calculated on the basis of the value of —
  - (i) construction work carried out by the person under the contract; or
  - (ii) related goods and services supplied by the person under the contract —

In establishing the valuation of construction work and related goods and services, the adjudicator will have to have reference to the contract price of the work, any other rates or prices set out in the contract, any variation agreed to by the parties to the contract or any other rate or price set out in the contract, and make adjustments by the specific amounts. The valuation will be made in consideration of whether any of the works are defective, the estimated cost of rectifying those defects, and so on! We have a typical minefield which could go on forever, and that is the fundamental reason why, in many cases, progress payments are not made.

Presumably all that evidence has to be led before an adjudicator. The main contractor may say it is shoddy work, but the subcontractor may say it is perfect work. Expert witnesses will then have to be rolled in to testify on each account. The main contractor may say, ‘Well, I spoke to the subcontractor and he agreed to the variation to contract as to the rates’. The subcontractor may say, ‘No, you didn’t!’ Written and verbal evidence will have to be led. So this will be a process akin to going to court.

Of course, the final thing would be if the subcontractor were to get an adjudication in his favour after going through all this process, and the main contractor were to say, ‘I am not paying’. What happens then? It would go to court and run the whole gamut of the normal legal process, as would happen now with some contract arrangements.

So the bottom line is that the objective of this piece of legislation is highly desirable. I do not disagree with that at all, but it is very unfortunate that it seeks to exclude domestic building contracts, which are one of

the major areas where these sorts of disputes arise and where subcontractors are hurt the most. In many cases the subcontractors for domestic building are smaller. Many are run by one or two men or are family entities, and they are often the least able to withstand the rigours of a major interruption to cash flow that would occur from failure to meet a progress payment. Because of the type of industry that it is, you also get more of the contractors who do not have quite the same skill backup and administrative support and who perhaps operate a little bit more like cowboys than the bigger construction companies.

When all is said and done, if there is a dispute it will go through a quasi-legal process with adjudicators and that will take a significant amount of time. Even if it is determined that a payment is due and there is a dispute over quality and so on, then that sort of adjudicated payment simply will be held in trust. Of course at the end of the day, for the real recalcitrant the bottom line will be to go to court, as it always was.

The bill has a fine objective but the reality of the industry — and I can speak from some experience having been involved in the industry for many years — is that it is pretty cutthroat out there and people take a very hardline view. This bill will not do a lot to stop hardline recalcitrants who seek to rip off subcontractors, as some clearly do. It is a fairly idealistic view that this legislation will do so, because at the end of day you get back to the court process and you go through a whole process that may take months and years. I hope this legislation helps, but I am afraid that in many cases when this bill is enacted we, as members of Parliament and practitioners in this area, will still hear of many examples of subcontractors who feel very aggrieved about problems with their progress payments and sequencing.

**The DEPUTY PRESIDENT** — Order! I am of the opinion that the second reading of this bill requires to be passed by an absolute majority. I ask the Clerk to ring the bells.

**Bells rung.**

**Members having assembled in the chamber:**

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

**Required number of members having risen:**

**Motion agreed to by absolute majority.**

**Read second time.**

*Third reading*

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

That this bill be now read a third time.

In doing so I thank the Honourables Peter Katsambanis, Gavin Jennings, Jeanette Powell, Glenyys Romanes, Ken Smith, Dianne Hadden and Chris Strong for their contributions in this chamber.

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

**Required number of members having risen:**

**Motion agreed to by absolute majority.**

**Read third time.**

*Remaining stages*

**Passed remaining stages.**

## ADJOURNMENT

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

That the house do now adjourn.

## World Masters Games

**Hon. ANDREW BRIDESON** (Waverley) — I draw to the attention of the Minister for Sport and Recreation, who has just left the chamber, an issue to do with the Masters Games, which are to be conducted between 5 October and 13 October of this year.

All honourable members will have received a copy of *Active State* in their mail yesterday. I was rather taken by the Masters Games article in it, which says that the entry fee for the games is \$165 for most sports and that further details would be available from the web site. I went to the web site to have a look at what the costs would be for the various sports and noticed that the entry fee for ordinary competitors is \$165, which allows people to participate in one sport. Those entering to play golf pay an additional \$220 golf entry fee — that is, \$165 plus \$220. Anyone who wants to enter more than one sport will pay an additional fee of \$55. A person with a partner, family friend or some other person who wants to go along in a non-competitive role

will pay an accompanying person's fee of \$75. So, for example, if I am an athlete and I want to take my wife along to look after me while I run the marathon it is going to cost us \$240.

A lot of people who are going to compete in the Masters Games will be self-funded retirees and may be pensioners, and these fees for participation may well be beyond many of those people. I ask the minister to give serious consideration to adjusting the fees to broaden the category of competitor and so that pensioners might be encouraged by lower fees to participate.

### **Wando Vale Primary School**

**Hon. R. M. HALLAM** (Western) — I raise for the Minister for Education Services, and I am sorry she is not in the chamber to hear this directly, the government's recent announcement that airconditioning was to be installed in the primary school at Wando Vale.

I could simply hold the minister and the government up to ridicule for this bureaucratic stuff-up because, as was recently related to the chamber by the Honourable Bill Forwood, the school has been closed due to a drop off in student numbers and a decision taken by the remaining parents to send their children into the nearby main centre of Casterton. I could have ridiculed the minister on the basis that that closure took place during the term of the Bracks government and remind her of all the posturing and pontificating that took place from the Australian Labor Party in opposition. I could also have made much of the point that if the Bracks government had followed the standard courtesy of consulting local members of Parliament instead of simply consulting ALP branch secretaries I could have saved the minister the embarrassment — although I am not sure why I should have done so!

In any event I can verify that the school does not need airconditioning. Quite apart from having an absence of students, the building has now been vandalised and ransacked and, indeed, sufficient weatherboards have been looted to allow one to see right through the building — literally! To that extent the school is already airconditioned!

My point is that what was once a proudly maintained community facility is now an eyesore and an embarrassment. I offer the minister the chance to recover some credibility from this *Yes, Minister* script. I suggest she consult with the last serving school council and offer financial support for the local view as to how the site should now be used and developed in the best long-term interests of the local community.

### **Police: Pakenham station**

**Hon. K. M. SMITH** (South Eastern) — I raise for the attention of the Minister for Police and Emergency Services in another place a matter concerning the Pakenham police station. Pakenham police station is an old, decrepit building that does not house enough police, and those who are there are certainly overworked because it is understaffed. They have a huge area to cover with very inadequate resources.

I notice from the documents produced along with today's budget speech that the government is planning on putting a new police station at Bunyip, which is certainly a growing area and in need of a police station that is adequate for its growing community.

Pakenham covers a huge area and, as I said, the major police station in that area works out of a very inadequate building. I ask the minister to come out and look at the police station, and I will explain to him the needs of the police. I will badger the Minister for Police and Emergency Services until we get a better police station in Pakenham. I support the police who are working extremely hard to cover the huge area with its growing population, which is made up of many groups. They need help; they need resources and a police station that enable them to deal with the area properly.

I worked hard to get a new police station in Wonthaggi. The police there were working out of an old house which was falling down around their ears. The police minister was good enough to make available resources and the finances to build what is now a first-class police station at Wonthaggi. I am looking for a better police station to be built in Pakenham because the area is much larger than that covered by Wonthaggi police. I do not want to be fobbed off and find it is not going to start for another 2, 3 or 4 years. It has to start now. The area has a huge population; it is probably one of the fastest growing areas in the south-east. The police minister should not ignore me because he will do so at his own peril.

### **Rural and regional Victoria: Seniors Card**

**Hon. E. J. POWELL** (North Eastern) — I refer the Minister for Small Business who represents the Minister for Senior Victorians in the other place to a letter I received recently from the secretary of the Warrnambool branch of the Association of Independent Retirees, Mr William McIntyre, who asked me to raise an issue on their behalf. However, it is not just on their behalf but is a matter that will benefit all country seniors. The members of the Association of Independent Retirees received from the Minister for

Housing in another place, the Honourable Bronwyn Pike, a letter addressed to eligible householders regarding Seniors Card material. The letter contained a 1300 phone number for people to ring if they wished to obtain a booklet entitled *Growing Victoria Together*. However, in a postscript to her letter the minister urges 60-year-old non-Seniors Card holders to phone a Melbourne number to obtain information regarding eligibility. The same Melbourne phone number appears in the 'How to contact us' section on page 2 of the Seniors Card booklet.

The association asks why a 1800 phone number, which is a free call or perhaps a local call, is not available for use by country callers, who may be prepared to endure a delay with a free call or local call but would get very frustrated if they had to phone this number, which is a Melbourne number, and wait a long time, particularly when the calls would have to be made during peak cost times. Their view is that it is another instance of country seniors not being treated the same as metro seniors and that they are being disadvantaged by living outside Melbourne. I ask the minister to redress this situation and implement a 1800 number so that country seniors have the same advantages as metro seniors.

### **Housing: Prahran estate**

**Hon. ANDREA COOTE** (Monash) — I refer the Minister for Small Business who represents the Minister for Housing in another place to an article in the *Herald Sun* of 6 May 2002 entitled 'Boost in security for flats'. I was pleased to see that an additional \$790 000 has been given by the government for new security measures for the Fitzroy, Collingwood and Prahran estates — and I commend that. I was particularly interested and pleased to see that \$190 000 was to be used at the Prahran flats to put a fence around the playground. However, the additional security is needed because of an article that was written some time ago by the *Herald Sun* exposing drug abuse in the high-rise flats, highlighting the bad situation in some of these estates. Although drugs are an issue for people in Prahran, many of these people living at the Prahran estate are elderly and drugs are not the only problem; they are more worried about day-to-day security. They are frightened of going in and out of the Prahran estate.

I ask the minister: in addition to the fence around the playground at the Prahran estate — which is very welcome — will the tenants of the Prahran estate enjoy the same level of surveillance that will be offered to those people in Fitzroy — that is, individual intercom systems and additional security surveillance? Will additional police be put on to cope with this?

### **Drivers licences: bonus merit points**

**Hon. P. R. HALL** (Gippsland) — I refer the Minister for Police and Emergency Services in the other place to a matter that was brought to my attention by one of my constituents, Mrs Val Marcus of Traralgon. Mrs Marcus commented about the proposed bonus merit points system for good drivers. She applauded the fact that good drivers should be rewarded in this state. However, she pointed out some of the deficiencies in the proposal as outlined at this time — that is, people who are good drivers and achieve bonus merit points are the exact people who are most unlikely to benefit from this proposal, given they are good drivers and are unlikely to lose points from their licences in any case.

Mrs Marcus made some suggestions as to what would be a more appropriate method of rewarding good drivers, and I put her suggestions forward for the Minister for Police and Emergency Services to consider. She suggests that as a reward all drivers who maintain their 12 merit points on their licences for a period of three years should be rewarded by a suggested discount of 20 per cent on their car registration and Transport Accident Commission insurance renewal, which would be a saving of about \$80 on the fee of \$400 which is the approximate current vehicle registration and renewal figure. Mrs Marcus makes a very good point that this is something that all Victorian drivers could aspire to, as it is suggested the proposed bonus merit point system is just for a few random, luckily-spotted good drivers. This system makes eminent sense, would bring about the objectives of the proposal — that is, to encourage people to be good drivers on our roads — and I ask the Minister for Police and Emergency Services to give it serious consideration.

### **Insurance: public liability**

**Hon. R. H. BOWDEN** (South Eastern) — I seek the assistance of the Minister for Finance in another place and draw his attention to a difficulty among a large number of my constituents. On the Mornington Peninsula in particular there is a wide network of recreational horse and pony clubs and people who are very committed to their pony clubs and other associated recreational activities. I have received several letters from representatives of the Balnarring Pony Club, which is a member of the Pony Club Association of Victoria. To help the minister understand the scope of this organisation, the Pony Club Association of Victoria has approximately 8000 riding members between 6 and 21 years and is supported by 12 000 adult members.

The difficulty that has been reported to me and which I have been asked to raise in Parliament is to do with public liability and professional indemnity insurance, because on 30 June the Balnarring Pony Club may very well have to cease to exist. This is but one of many clubs, and I have given those numbers to the minister so that he can appreciate the seriousness and the impact on our community of the loss of this organisation which, along with other organisations, is facing a real crisis.

We all know that the state and federal governments are working on this issue, but the urgency is now becoming real because on 30 June many hundreds of my constituents will be disadvantaged and will have to seek other recreational outlets. This will have a great effect on the economy of the Mornington Peninsula. It will have an effect on people who in their younger years are learning skills as members of the pony clubs, particularly the Balnarring Pony Club which has been very up-front in telling me of its problem. The members of the Balnarring Pony Club are typical of the young people who are learning skills and taking a very credible approach to those skills. Their parents and families are concerned that access to that learning continue. I ask the minister to further speed up the resolution of this major problem so that clubs like the Balnarring Pony Club do not cease to exist on 30 June this year.

### **Queen Elizabeth Oval, Bendigo**

**Hon. R. A. BEST** (North Western) — The issue I raise for the attention of the Minister for Sport and Recreation is dear to my heart and one that I have continued to pursue over the past two and a half years. I refer to funding for the desperately needed upgrade of facilities at the Queen Elizabeth Oval in Bendigo.

As most people would be aware, the QEO, as it is known, is one of the most important sporting venues in Bendigo. It is the home of the Sandhurst football and cricket clubs, the South Bendigo Football Club, the Bendigo Cricket Club and the Bendigo Diggers Football Club. It also hosts the Bendigo Pioneers Football Club and major school sporting events in Bendigo.

The problem is that the changing room facilities are very much below standard to host Victorian Football League teams and interstate cricket teams, let alone competitors in any other special events that may be identified as suitable for staging at the oval.

I am aware that for quite some time the City of Greater Bendigo has sought support from the government. It is looking for funding in excess of \$1 million. I totally

support the city's submission for funds from the government. It is particularly disappointing to note that no funding announcement has been made in the 2002–03 budget presented today in the other house. I am particularly concerned that the government may want to use the QEO upgrade as an election issue. That would deprive the City of Greater Bendigo of a facility that can be used to attract and host major sporting events.

When will the minister make a funding announcement for the upgrade of the QEO, given that the City of Greater Bendigo and all sporting associations in Bendigo support the upgrade of the QEO? As I said earlier, it is particularly disappointing that the government has made no funding commitment to it in today's budget. I call on the minister to announce funding for what is a most important project for Bendigo.

### **Gas: Gippsland pipeline**

**Hon. PHILIP DAVIS** (Gippsland) — I wished to direct a matter to the attention of the Minister for Energy and Resources, but she is not in the chamber. Therefore, I ask the Minister for Small Business to direct my matter to the attention of the Minister for State and Regional Development in the other house.

The Bass gas project will bring the natural gas transmission pipeline through West Gippsland. That will open up the possibility that natural gas can be brought to South Gippsland by tapping the Bass gas pipeline at Lang Lang and laying a pipeline west to east through Poowong, Korumburra and Leongatha. That route could be significantly easier, and therefore cheaper, to traverse and construct than the non-viable 1997 proposal to bring gas to South Gippsland via the Strzelecki Ranges by tapping the Longford–Melbourne pipeline at Morwell.

As a result of that opportunity opening up, last week I invited the Envestra group to review their 1997 financial feasibility of the South Gippsland gas proposal, particularly in light of significant population growth. The population of Leongatha has nearly doubled over that time. A number of new businesses that have been established in South Gippsland depend on high levels of liquid gas. For example, I understand Burra Foods uses \$2 million of gas each year. That brings into ambit the possibility of reviewing the financial feasibility of a supply.

Given the precedent that the Bracks government set by supporting financially the reticulation of gas to the Bellarine Peninsula to the tune of \$1.75 million, what

criteria would South Gippsland need to meet to obtain government financial support for this project involving the reticulation of natural gas to South Gippsland, other than by political expediency?

**Information and communications technology:  
outer space strategy**

**Hon. B. C. BOARDMAN** (Chelsea) — The matter I raise is for the attention of the Minister for Information and Communication Technology. In doing so I bring to the minister's attention certain technological initiatives concerning her portfolio in today's budget, in the Building Tomorrow's Businesses Today package and the acknowledgment from the government of the need to increase Victoria's technological capacities and exchange ideas on policy to engender greater investment and facilitation of technology-related initiatives.

I bring to the attention of the minister a letter that I, and probably a number of other honourable members, received from Mr Bruno Racina, the executive director of Aquarian Age Applications Corporation Pty Ltd, in which he advises that:

The Muons from Myton are in close proximity to our planet in their main ship and several accompanying smaller scout-style craft.

He says he makes:

An appeal for immediate attention in this matter ... because the Muons will need to be acknowledged and welcomed, and relieved from their quarters, no matter how comfortable and how self-sufficient they are.

... if nothing is done, or at least brought to public debate, we put at stake the welfare of the 1000 distinguished visitors that have embarked on a mission of peace and goodwill from a faraway planet in the star cluster of the Pleiades, Constellation Taurus, 7.5 light years distant. A favourable gesture by the Parliament of Victoria will be met with their gratitude and personal thanks.

He advises that the Muons are in possession of such technologically advanced facilities as space stations and star ships and that they have:

Apparatus for personal transport, based upon the same principles, known as 'Tara'.

He says they also have 'new systems of proliferation of drinking water' and knowledge about the 'production of enhanced stockfeed'.

Considering that this race of people, or whatever they are, produces such technological advancements, it is important that at least they get acknowledgment from the government. Given the seriousness of this issue —

and no doubt Labor members of Parliament have received similar letters; it would have been discussed at the cabinet table — I and other members of the Liberal Party are taking the letter seriously. I assume the government has formulated a strategy on how it will welcome the Muons. The possibility of the Muons landing is imminent and we do not want to miss this historically important event.

Will the minister outline the government's strategy for welcoming these creatures and how Victoria can learn from their technology?

**Treasury and Finance: web site**

**Hon. P. A. KATSAMBANIS** (Monash) — It is rather hard to follow the matter raised by the Honourable Cameron Boardman, but I will attempt to direct an issue to the attention of the Minister for Information and Communication Technology. It is a serious matter that the minister should address immediately.

For at least the last 45 minutes I have been attempting to access a number of Victorian government web sites, particularly the web site of the Department of Treasury and Finance, which is appropriate given that the 2002–03 budget was presented in the other place today. I have also been attempting to access the direct link from the [www.vic.gov.au](http://www.vic.gov.au) web site front page to the budget and the Victorian government's press release site, but with no success.

The government has made a commitment to make information available online, but the error message I continue to receive on my laptop computer is 'Cannot contact server'. This is happening when, I imagine, thousands of Victorians would have been trying to access live, real-time information on the web, and would have been inconvenienced by not being able to do so.

Will the minister now admit that this is one more example of how the government is failing in its commitment to provide information and government services online and will she investigate why on such an important day this important information is not available for such an extended time to the public of Victoria?

**Chronic fatigue syndrome**

**Hon. N. B. LUCAS** (Eumemmerring) — I raise a matter for the attention of the Minister for Health in the other place. This week is International Chronic Fatigue Syndrome/Myalgic Encephalopathy Awareness Week and I take the opportunity to recognise and support

those sufferers of chronic fatigue syndrome (CFS) or myalgic encephalomyelitis (ME). Many people have had this condition for a long time and some suffer from it greatly. I also take the opportunity to applaud and encourage those people who care for people with this condition. I refer to members of ME/Chronic Fatigue Syndrome Society of Victoria which supports sufferers.

Over the past four or five years I have raised this issue in Parliament because I believe society does not know enough about this condition and certainly does not do enough to support those who suffer from it. As members of the community I believe we should do whatever we can, in this case through Parliament, not only to bring this matter to the community's attention, but to seek further support.

Recently a published document entitled *CFS Guidelines for Doctors* was roundly criticised by sufferers, those who care for them and those who work with them in a number of areas. It is a shame that some conjecture has arisen. There is a need to have a further look at this issue because we should not have therapies included in guidelines that are regarded as not appropriate for people suffering from this condition or that blame sufferers or suggest the condition is trivial. I know a number of people with this condition and I know that they face a very difficult situation.

I ask the Minister for Health to call together all relevant parties involved in the preparation of the CFS guidelines with a view to reviewing the findings, taking into account the views of both the ME/CFS society and sufferers of this condition.

### **Workcover: agencies**

**Hon. BILL FORWOOD** (Templestowe) — I raise a matter for the attention of the Minister for Small Business. I have received a letter from L. A. Woodland and Associates, public accountants and registered tax agents, which states in part:

In the past year as a practising accountant to mainly small business I have been appalled at the total repeated bungling and rigid practices that appointed agencies of the Victorian Workcover Authority have applied to some of my clients. My clients have all transacted business with this government agency under the present and former governments but at no time have I felt that the agencies have been out of touch with normal commercial practices as at the present.

Mr Woodland goes on to detail a particular circumstance which basically runs like this. He has a client who had a statutory demand issued by the Victorian Workcover Authority agency Allianz for \$12 944, which was obviously wrong. He instructed a member of his staff to call Allianz to obtain full details

of the amount, but could not get to first base because he was told they could not speak to him because of the privacy laws. In the meantime a wind-up motion was received on 16 April, set down for hearing on 15 May.

Eventually they sorted some of this out, but on 18 April my constituent informs me that he spoke to someone at Allianz to explain that the demand for \$12 944 was ridiculous. He then received a letter from Hall and Wilcox, solicitors, reducing that amount to \$5425. The letter from Hall and Wilcox states:

As you are aware a proceeding to wind up your company has been issued and is listed for hearing on 15 May 2002. Our client's legal costs to date are \$2500. If you send a check to us for \$7925 ... we will discontinue the proceeding ...

Mr Woodland's client went in and paid the amount of \$5425 on 3 May, so he paid the amount he had been asked for only to be told that the legal costs were now \$4000. Will the Minister for Small Business give this house an undertaking that tomorrow she will get her staff to ring Mr Woodland so this mess can be sorted out?

### **Buses: Ringwood–Croydon service**

**Hon. A. P. OLEXANDER** (Silvan) — I seek the assistance of the Minister for Transport in the other place. The issue I raise today is one that I raised during the adjournment debate on 19 March relating to bus services along the Maroondah Highway on Sundays between Ringwood and Croydon. During that adjournment debate I pointed out to the minister that there is only a Monday to Saturday service at the moment and there are many elderly and retired residents who live in the area who feel isolated and shut in because of the lack of connection with other public transport services on Sunday. This applies particularly to those who reside in the Cherrytree Grove Retirement Village.

I also informed the minister that the Croydon Bus Service, part of the Invicta group, was amenable to extending its service by providing two services each way on Sundays if it received minimal funding from the transport division of the Department of Infrastructure. I asked the minister whether he would favourably receive a proposal from this bus company for this important project.

On 26 April I received a response from the minister in which he informed me that the Department of Infrastructure has under consideration a huge number of competing requests and that these requests include requests for additional weekday and weekend services, including evenings, Sundays and public holidays. He

says the merits of these requests are continually assessed by his department subject to funding availability. The minister then goes on to state:

The Bracks government's recent budget provides funding to introduce new and improved bus services over a four year period in several outlying growth areas including Roxburgh Park, Rowville, Werribee, Berwick and St Albans/Sydenham. These locations have limited or no weekend service at all and are regarded as much higher priority at the moment compared to the Sunday service you have requested.

Two things occurred to me about the minister's letter. Not only has the minister pre-empted the government's budget announcement in releasing the letter to me on 26 April, but he has prejudged an application from my community and from Invicta Bus Services without even having received the application. It is still not in his hands. The minister should apologise to my community and to the bus company. Will the minister undertake to follow proper process and consider the application fairly and clearly on its merits?

#### **Payroll tax: small business**

**Hon. G. K. RICH-PHILLIPS** (Eumemmerring) — I raise a matter for the attention of the Minister for Small Business. I refer her to her answer during question time this afternoon in response to my question on payroll tax. I was not surprised to see the minister had no grasp of the government's policy and I was pleased to be able to point out to her where the answer relating to small business was in the policy document.

**Hon. D. McL. Davis** interjected.

**Hon. G. K. RICH-PHILLIPS** — I was trying to be helpful. During the minister's answer she indicated that small business or business generally was to benefit by the changes the government had announced with respect to payroll tax. I refer to the 2002–03 budget estimates tabled by the Treasurer this afternoon. Table 3.2 headed 'Taxation estimates' on page 391 of budget paper 3 has a line item for payroll tax estimates. It shows for the 2001–02 financial year payroll tax was budgeted at \$2607.2 million, and for 2002–03 the budget estimates for payroll tax is \$2710.1 million, an increase in receipts of around \$103 million.

The government is going to collect an extra \$103 million in payroll tax despite the minister saying earlier this afternoon that business would benefit from the changes in payroll tax. So I ask the minister whether she will reflect on her answer this afternoon, or does she believe the Department of Treasury and Finance and the Treasurer have got it wrong?

#### **Housing: North Western Province**

**Hon. B. W. BISHOP** (North Western) — I raise with the Minister for Small Business representing the Minister for Housing in the other place a matter concerning the Shire of Buloke. Adequate housing in rural areas is simply becoming a thing of the past. This has traditionally had the detrimental effect of preventing the sourcing of professional people such as doctors, teachers and police officers for regional towns. Such an effect is currently being felt by the Buloke Shire Council, as outlined in recent correspondence from the chief executive officer to me.

The council's particular concerns revolve around the inability to adequately house two police officers in Donald. The vacancies have to be filled in an effort to meet the policing needs of the district, but the housing shortage is making that impossible. This has now become more than a housing issue; it has evolved into a safety issue. The vacancies for the police are there, the need is there but the housing for the appointments is not.

I acknowledge that there is a shortage of housing in most rural and regional areas — Mildura, Robinvale, Swan Hill and right across the North Western Province which I represent. However, in most cases it is a housing shortage for families who relocate from one place to another, which is in itself a great pity. I know it can cause great distress and place stress on family members, and it forms part of the workload of our officers in country Victoria. For many families the waiting list for public housing is up to four years and in some areas it is even longer. For people needing to shift towns for work and other necessary reasons it is a heartbreaking wait.

The shortage has wide-reaching ramifications because it means that police, teachers and other needed community professionals are unable to find somewhere to live. Professional medical people, forever sought after in our rural areas, find accommodation very scarce. Once there was an abundance of housing available — teacher housing, police housing and doctor housing was accessible — but it is no longer there.

The public housing crisis affects everyone: the family it displaces, the professional it turns away and the communities that are left without those who are prepared to serve. Can the minister advise me what action the government is taking to remedy this situation?

### Serrated tussock

**Hon. I. J. COVER** (Geelong) — I direct through the Minister for Small Business a matter for the attention of the Minister for Environment and Conservation in the other place. It concerns serrated tussock, which I am sure is of great concern to many people throughout Victoria.

I have been contacted by Mr Robert Percy, the secretary of the Batesford–Fyansford–Stonehaven Landcare group, who points out that the members of his group continue to be concerned about the lack of work undertaken to reduce the infestation of serrated tussock on two properties near where he lives at Batesford and where this Landcare group is based, namely Dalkeith and Liberton. The Dalkeith property might be well known to members of the house as the property outside Geelong where the Stonehaven power station was to be built. That is of course well known also to government members, particularly as the government refused to provide an environmental effects statement for that proposal.

The issue of serrated tussock is urgent and pressing; it appears that no spraying or burning has been carried out to control it on these properties. Adjoining and nearby property owners are finding it more difficult and expensive to eradicate serrated tussock as it spreads to their properties. The suggestions made by the Batesford–Fyansford–Stonehaven Landcare group are that legislation could be improved and could include more severe penalties for property owners who do not attack the problem of the spread of serrated tussock.

Mr Percy, as secretary of the Landcare group, is seeking an upgrade of information from the minister and the government about legal proceedings that may be taken against the owners of these particular properties and whether the government has any plans to introduce legislation which would improve the situation so the serrated tussock problem could be attacked more readily and efficiently.

### Police: Endeavour Hills station

**Hon. M. T. LUCKINS** (Waverley) — I raise with the Minister for Sport and Recreation to pass on to the Minister for Police and Emergency Services in another place a matter concerning the building of new police stations. I noticed in the budget the Treasurer brought down today that allocations are made for the building of new police stations at Footscray and Coburg only.

I remind the minister that Labor's first 1999 state election promise made to the south-eastern suburbs was

to build a new 24-hour state-of-the-art police station in Endeavour Hills. It may sound curious that I am raising a matter concerning Endeavour Hills, but two of my colleagues in the other place, the honourable members for Oakleigh and Clayton, have both raised this matter previously with the Minister for Police and Emergency Services calling for the police station to be built.

The new budget contains no allocation for this new police station. The issue has to do with the identification of sites. The government had five sites to choose from, and regardless of an abundance of other seemingly appropriate properties the government earmarked a park, which also includes a playground, in Chalcot Drive, Endeavour Hills. This suggestion was rejected by the City of Casey after expressions of community concern, so two and a half years after the election and certainly within the next budget period there is no chance at all for the people of Endeavour Hills to have Labor's promise to build a new police station delivered.

I noted with interest that on 26 February this year the honourable member for Clayton in the other place asked the Minister for Police and Emergency Services to relocate the police station from Endeavour Hills to his electorate in Clayton.

**Hon. Andrew Brideson** — That is only because I raised it!

**Hon. M. T. LUCKINS** — That is right, and my colleague the Honourable Andrew Brideson and I have had many meetings with the Clayton traders and the police themselves regarding their and the community's concerns about the increasing crime rate, particularly with young people and drug use in that area.

My query for the minister is twofold. Firstly, when does he anticipate delivering on the election promise to the people of Endeavour Hills to build a new 24-hour state-of-the-art police station and undertake not to build it on a current playground and park; and secondly, when will he consider committing funds for a new 24-hour police station in Clayton where it is much needed? I also seek clarification about how much consideration the minister has given — —

**Hon. M. R. Thomson** — On a point of order, Mr Acting President, I thought only one question was allowed on the adjournment debate. I think we are getting about three.

**Hon. M. T. LUCKINS** — I am clarifying.

**The ACTING PRESIDENT**  
(**Hon. G. B. Ashman**) — Order! I think the honourable

member is expanding the question, and I do not think it is appropriate to phrase it so that it becomes a multiple question. She might like to be a little careful in her phrasing so that it is in fact one question.

**Hon. M. T. LUCKINS** — I ask the minister to respond to my concerns about Clayton and Endeavour Hills police stations.

### Stamp duty: reform

**Hon. D. McL. DAVIS** (East Yarra) — I raise a matter concerning the state budget for the attention of the Treasurer in the other place. I note that his representative is not in the chamber on budget night, which is shameful. It is important to note that the Treasurer has repeatedly resisted the provision of any relief or any return of the windfall gains it has made on stamp duty. This budget is shameful in the level of collections in relation to stamp duty. Page 223 of budget paper 2 indicates that stamp duty revenue from land transfers and mortgages amounts to \$759 million, which is the increase received by the government this year. That is a massive increase. The government budgets for a significant increase, again budgeting for much greater increases in stamp duty than we have seen in the past, although it indicates that this year there will be some dip. However, on past form I do not believe that.

I wish to place on record that stamp duty has soared from \$1006 million in 1998–99 to an estimated \$1.85 billion in 2001–02, which is an increase of 84 per cent in just over two and a bit years. It is largely a case of bracket creep and the property price boom which has pushed up stamp duty collections on a typical Melbourne house price to 54 per cent greater than at the time of the September 1999 change of government.

I note the government's plan to collect very significant increases in a range of taxes, but this matter of stamp duty is significant because it impacts directly on people with very normal incomes. It impacts on people in typical suburbs and impacts on people in suburbs like those in my province of East Yarra.

**Hon. W. I. Smith** — Burwood.

**Hon. D. McL. DAVIS** — The Burwood part of East Yarra, as the Honourable Wendy Smith alerts me.

**Hon. G. R. Craige** — Glen Iris.

**Hon. D. McL. DAVIS** — Glen Iris, as Mr Craige also alerts me, and Box Hill and suburbs like that. However, it also affects suburbs out into the north and west of Melbourne — Essendon and Brunswick — and

in the east — Berwick and areas like that — which have felt the impact of the stamp duty revenue windfall this government has collected. I record in this public forum my concern at the Treasurer's intransigence on this issue and note that many people believe he should move on this — —

### The ACTING PRESIDENT

(**Hon. G. B. Ashman**) — Order! The honourable member's time has expired.

### Young Achievement Australia program

**Hon. W. I. SMITH** (Silvan) — I refer the Minister for Small Business to a press release she put out and an answer she gave to a question on notice. The press release concerns young people taking small business as a career and says:

Encouraging young people to develop their own business initiatives and opportunities will be a key focus of the Bracks Labor government's small business agenda for 2000 and beyond.

The minister says:

We're committed to ensuring that young people are given real opportunities to ... establish their own business enterprises.

In doing that the minister said that the government would continue to support two major youth entrepreneurship programs, one of which is Young Achievement Australia. The aim of that program is to help young people kick-start new business enterprises and introduce the principles of successful business operation to students, which is a great aim.

In relation to the business skills program, Young Achievement Australia, I asked the minister four questions: how many grants have been funded; how many recipients of the grant have started their own business; what are the targets for the program; and what are the criteria for assessing the program?

In her answer the minister says two things: the targets are to extend business skills opportunities to as many participants as possible from regional Victoria, in particular disadvantaged youths and indigenous groups. That is a great aim, but I ask: what about metropolitan youths as well?

The issue I particularly raise is that in answer to the question regarding how many recipients of the grant have started their own business — which is one of the aims of the program — the minister said that Young Achievement Australia does not keep records of the number of participants who might have later started their own business. As it is a stated objective that the

government wants young people to start businesses, I ask the minister how can she benchmark the success of the program if she has no idea of how many people start their own businesses?

### **GST: ALP policy**

**Hon. G. R. CRAIGE** (Central Highlands) — I address my question to the Minister for Small Business, and in doing so I say that it specifically relates to the GST. Members on this side of the house have very long memories concerning the GST. Recently, the federal opposition shadow Treasurer announced that the Labor Party has now dumped its opposition to the GST. That will be welcomed by most enlightened Australians. Clearly, it will be seen that the Labor Party can be progressive.

This house will recall that the minister has accused members on this side of carping and whingeing. Let me say that on the GST she has consistently and continually gone on and on about it and the economic impact it will have on the people of Victoria and small business in particular. On so many occasions we have heard in this chamber the minister calling on the opposition to have some impact on its federal colleagues in relation to the GST.

Noting the minister's membership of the Labor Party federal executive as a right-wing power broker, will she now support the beneficial effects of the GST on the Victorian economy in line with her federal colleagues?

### **The ACTING PRESIDENT**

**(Hon. G. B. Ashman)** — Order! Before calling the Minister for Small Business to respond I refer to a matter raised by the Honourable Ian Cover seeking some direction on serrated tussock. I believe that he called for legislation to be introduced. I remind honourable members that the rules for the adjournment debate preclude any request for the introduction of legislation.

**Hon. Bill Forwood** — On a point of order, Mr Acting President, my understanding is that Mr Cover's contribution tonight was the result of a letter he had received. As I recall, the writers suggested that one of the options the government could consider would be the introduction of legislation. From my recollection Mr Cover did not call for the introduction of legislation. What he did was repeat that there was a group of people who sought that. I suggest that Mr Cover's contribution falls within the guidelines because it was not he who called for the introduction of the legislation.

### **The ACTING PRESIDENT**

**(Hon. G. B. Ashman)** — Order! The point of order was somewhat out of order in calling a point of order on the Chair. I was about to suggest to the minister that in her response she may like to take note of that and respond accordingly.

### **Responses**

**Hon. M. R. THOMSON** (Minister for Small Business) — The Honourable Andrew Brideson raised a matter for the attention of the Minister for Sport and Recreation concerning the Masters Games and concession prices for pensioners and asked whether that could be taken into account. I shall pass that on to the Minister for Sport and Recreation.

The Honourable Roger Hallam raised a matter for the attention of the Minister for Education Services concerning the Wando Vale school and asked whether she could consult with the previous school council on the use of that facility and the asset to the community. I shall pass that on to the minister for her direct response.

The Honourable Ken Smith raised a matter for the Minister for Police and Emergency Services in relation to the Pakenham police station, and I shall pass that on for his direct response.

The Honourable Jeanette Powell raised a matter for the Minister for Senior Victorians concerning matters raised by the Warrnambool branch of the Association of Independent Retirees in regard to an 1800 number for seniors information. I shall pass that on to the minister for a direct response.

The Honourable Andrea Coote raised a matter for the Minister for Housing concerning security at the Prahran housing estate which I shall pass that on to the minister for her direct response.

The Honourable Peter Hall raised a matter for the Minister for Police and Emergency Services about a constituent, Val Marcus, regarding bonus merit points and the suggestion that discounts be provided for vehicle registration and insurance for those who maintain their 12 points over a three-year period. I shall pass that on to the minister for his consideration.

The Honourable Ron Bowden raised a matter with the Minister for Finance concerning horse and pony clubs, particularly the Balnarring Pony Club on the Mornington Peninsula, regarding public liability and professional indemnity. I shall pass that on to the minister for his direct response.

The Honourable Ron Best raised a matter for the Minister for Sport and Recreation concerning the Queen Elizabeth Oval at Bendigo and asked when an upgrade of that oval is likely. I shall pass that on to the minister for a direct response.

The Honourable Philip Davis raised a matter for the Minister for State and Regional Development concerning the Bassgas link and asked what criteria South Gippsland would need to meet for the reticulation of gas. I shall pass that on to the minister for his direct response.

The Honourable Cameron Boardman raised a matter in relation to a letter from Bruno Racina, who states that Muons may wish to visit this state. Obviously the honourable member has an affinity with that community; maybe the honourable member would like to be the welcoming committee for those visitors!

The Honourable Peter Katsambanis raised a matter in relation to the government being online, and access to government web sites. Something in the parliamentary system could possibly be a problem. I shall look at it and get back to the honourable member. It could be the system in Parliament itself.

The Honourable Neil Lucas raised a matter for the Minister for Health concerning chronic fatigue syndrome and concerns about the guidelines that have been developed. He asked whether they meet the needs of sufferers and what information doctors are being given. He seeks that the minister bring the parties together to review the guidelines. I shall pass that on to the minister for his direct response.

The Honourable Bill Forwood raised a matter from L. A. Woodland and Associates, accountants, in relation to Victorian Workcover Authority issues. I am happy for the honourable member to pass on the information, and we will examine it and raise it with the Minister for Workcover to see if we can find out what is going on. I will get back to the honourable member as soon as we are able to find out what the issues are.

The Honourable Andrew Olexander raised a matter for the Minister for Transport concerning the provision on Sundays of bus services on the Maroondah Highway between Ringwood and Croydon. I will ask the minister whether he will consider the application, and I will pass it on to him for his direct response.

The Honourable Gordon Rich-Phillips raised the question of payroll tax. Again I stress that there is a 0.5 per cent reduction of the payroll tax rate arising from the *Better Business Taxes* statement and *Building Tomorrow's Businesses Today*.

The Honourable Barry Bishop raised a matter for the Minister for Housing in relation to the Buloke Shire Council, in particular the capacity to house two police officers in Donald. I shall pass that on to the minister for her direct response.

The Honourable Ian Cover raised a matter for the Minister for Environment and Conservation about two properties that have come to the attention of the Batesford–Fyansford–Stonehaven Landcare group in relation to serrated tussock, warning information on potential penalties that may be applied in this case and what other potential action might be taken.

The Honourable Maree Luckins raised the matter of two police stations, Endeavour Hills and Clayton, and I shall raise that with the minister for a direct response.

The Honourable David Davis raised a matter for the Treasurer in relation to stamp duty, but we do not know what that was because he did not get to ask his question.

The Honourable Wendy Smith raised the question of Young Achievement Australia and a benchmark of success. The organisation seeks to give young people an opportunity to look at an alternative to other job prospects and to give them the skills so that they may be able to look at being business people rather than working for other people. It is a worthwhile organisation that works and does great things with young people.

The Honourable Geoff Craige raised a matter of the GST. I still get people in small business complaining about cash flow and business activity statement (BAS) issues. If the honourable member has read recent comments from the federal Leader of the Opposition, Simon Crean, he will know that they are still talking about the need to streamline BAS forms.

**Motion agreed to.**

**House adjourned 6.54 p.m.**

