PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-FIFTH PARLIAMENT

FIRST SESSION

Wednesday, 3 May 2006

(Extract from book 5)

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By authority of the Victorian Government Printer

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Drugs and Crime Prevention Committee — (*Council*): The Honourable S. M. Nguyen and Mr Scheffer. (*Assembly)*: Mr Cooper, Ms Marshall, Mr Maxfield, Dr Sykes and Mr Wells.

Economic Development Committee — (*Council*): The Honourables B. N. Atkinson and R. H. Bowden, and Mr Pullen. (*Assembly*): Mr Delahunty, Mr Jenkins, Ms Morand and Mr Robinson.

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Family and Community Development Committee — (*Council*): The Hon. D. McL. Davis and Mr Smith. (*Assembly*): Ms McTaggart, Ms Neville, Mrs Powell, Mrs Shardey and Mr Wilson.

House Committee — (*Council*): The President (*ex officio*), the Honourables B. N. Atkinson and Andrew Brideson, Ms Hadden and the Honourables J. M. McQuilten and S. M. Nguyen. (*Assembly*): The Speaker (*ex officio*), Mr Cooper, Mr Leighton, Mr Lockwood, Mr Maughan, Mr Savage and Mr Smith.

Law Reform Committee — (*Council*): The Honourables Richard Dalla-Riva, Ms Hadden and the Honourables Geoff Hilton and David Koch. (*Assembly*): Ms Beard, Ms Beattie, Mr Hudson, Mr Lupton and Mr Maughan.

Library Committee — (*Council*): The President, Ms Argondizzo and the Honourables Richard Dalla-Riva, Kaye Darveniza and C. A. Strong. (*Assembly*): The Speaker, Mr Carli, Mrs Powell, Mr Seitz and Mr Thompson.

Outer Suburban/Interface Services and Development Committee — (*Council*): Ms Argondizzo and Mr Somyurek. (*Assembly*): Mr Baillieu, Ms Buchanan, Mr Dixon, Mr Nardella and Mr Smith.

Public Accounts and Estimates Committee — (*Council*): The Honourables W. R. Baxter, Bill Forwood and G. K. Rich-Phillips, Ms Romanes and Mr Somyurek. (*Assembly*): Ms Campbell, Mr Clark, Ms Green and Mr Merlino.

Road Safety Committee — (*Council*): The Honourables B. W. Bishop, J. H. Eren and E. G. Stoney. (*Assembly*): Mr Harkness, Mr Langdon, Mr Mulder and Mr Trezise.

Rural and Regional Services and Development Committee — (*Council*): The Honourables J. M. McQuilten and R. G. Mitchell. (*Assembly*): Mr Crutchfield, Mr Hardman, Mr Ingram, Dr Napthine and Mr Walsh.

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

Parliamentary Services — Secretary: Dr S. O'Kane

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FIFTY-FIFTH PARLIAMENT — FIRST SESSION

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Dalla-Riva, Hon. Richard	East Yarra	LP	Pullen, Mr Noel Francis	Higinbotham	ALP
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Drum, Hon. Damian Kevin	North Western	Nats	Smith, Mr Robert Frederick	Chelsea	ALP
Eren, Hon. John Hamdi	Geelong	ALP	Somyurek, Mr Adem	Eumemmerring	ALP
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Gould, Hon. Monica Mary	Doutta Galla	ALP	Strong, Hon. Christopher Arthur	Higinbotham	LP
Hadden, Ms Dianne Gladys [2]	Ballarat	Ind	Theophanous, Hon. Theo Charles	Jika Jika	ALP
Hall, Hon. Peter Ronald	Gippsland	Nats	Thomson, Hon. Marsha Rose	Melbourne North	ALP
Hilton, Hon. John Geoffrey	Western Port	ALP	Viney, Mr Matthew Shaw	Chelsea	ALP
Hirsh, Hon. Carolyn Dorothy [1]	Silvan	ALP	Vogels, Hon. John Adrian	Western	LP

[1] Ind from 17 September 2004
ALP from 10 November 2005

[2] Ind from 7 April 2005

[3] Ind Lib from 30 November 2005

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Wednesday, 3 May 2006

The PRESIDENT (Hon. M. M. Gould) took the chair at 9.32 a.m. and read the prayer.

MELBOURNE SAILORS' HOME (REPEAL) BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Mr GAVIN JENNINGS (Minister for Aged Care).

PETITIONS

Water: fluoridation

Ms HADDEN (Ballarat) presented petition from certain citizens of Victoria praying that the Legislative Council of Victoria does not support the addition of fluoride to any Victorian water supply, including water in the Central Highlands and Grampians Wimmera Mallee regions, in view of current scientific doubts regarding its safety (377 signatures).

Laid on table.

Racial and religious tolerance: legislation

Ms HADDEN (Ballarat) and Hon. ANDREW BRIDESON (Waverley) presented petitions from certain citizens of Victoria requesting that the Racial and Religious Tolerance Act 2001 be repealed (16 and 10 signatures respectively).

Laid on table.

PAPER

Laid on table by Clerk:

Victims of Crime Assistance Tribunal — Report, 2004–05.

Hon. J. A. Vogels — On a point of order, President, yesterday during question time I believe the Minister for Local Government misled the house when she claimed that the question I was asking was sub judice as it was before the courts.

I had a look at *Hansard.* In response to my question the minister said that this matter was 'before a magistrate', before the courts and was therefore sub judice. As it turned out and as we now know — as I knew and we all knew — it was not before the courts at all; it was the subject of an investigation by a municipal inspector. I was therefore unable to finish asking my question because of your ruling, President. In your ruling you accepted the minister's word for it, but the minister has, I believe, misled the house with that statement.

The PRESIDENT — Order! First, the member cannot accuse a member of misleading the house by means of a point of order. I have read the *Hansard* report of what transpired yesterday. In her response the minister made mention of the matter being before a municipal electoral tribunal and being heard by a magistrate. I had previously ruled the Honourable Richard Dalla-Riva's question out of order, and once I got further advice I reinstated that question and that question was asked.

Mr Vogels's supplementary question was hypothetical and was ruled out. But with respect to the answer, the minister has given the answer and the member cannot raise a point of order saying that she has misled the house. There are other forms of the house for such a matter to be pursued, and he needs to follow those.

Hon. E. G. Stoney — Further on the point of order, President — —

The PRESIDENT — Order! A different point of order?

Hon. E. G. Stoney — On a point of clarification, President, you just said that Mr Vogels asked a hypothetical supplementary question. I believe he changed his supplementary question at your direction and therefore made it hypothetical. His original supplementary question was different.

The PRESIDENT — Order! I do not know what his original supplementary question was because he did not state it. He posed a hypothetical question, and it was accordingly ruled out of order.

Hon. Bill Forwood — On the point of order, President, and without in any way wishing to reflect upon your ruling, let me say that the answer the minister gave yesterday was that this government believes in the separation of powers, which automatically brings the sub judice rule into people's minds. She went on to talk about the behaviour of magistrates before the courts — —

The PRESIDENT — And your point of order?

Hon. Bill Forwood — The point of order is that if a minister wishes to suggest peripherally that a matter

would lead you to rule a question out of order, then it is incumbent on her or him to come in and correct the record and say, 'I did not intend to mislead the Chair or mislead the chamber'. And so I put it to you, President, that we need the minister to hurry back in here and to admit once and for all that what she was trying to do was hide behind the sub judice rule.

The PRESIDENT — Order! Mr Forwood should sit down. There is no point of order.

MEMBERS STATEMENTS

Buses: Buxton service

Hon. E. G. STONEY (Central Highlands) — I have a letter from George and Marie Evans of Buxton regarding poor public transport services to Melbourne from that area. The area only has one bus a day which leaves in the morning at about 9.30 a.m. and arrives at Spencer Street at about 1.00 p.m. It leaves on the return trip at about 3.00 p.m. arriving in Buxton at about 6.00 p.m. In their letter to me the Evanses say:

> As you can imagine the time between arrival and departure at Melbourne does not allow a person much time to get to the CBD and back to Spencer Street, and achieve much in the city. Medical appointments are almost impossible. Weekend service is one bus to Melbourne on Sunday afternoon.

The Evanses suggest it would be better to run two buses daily to Lilydale rail station and return. Their letter states:

> This would … not cost the government much more than at present, but would give the folk in this forgotten part of the world a much more convenient system, and allow daytime visitors access to the area without the necessity of an overnight stay. We have also written to Ben Hardman, without success.

I suggest to the minister and the government that they look at this proposal to give a better bus service to this quite remote area, especially for elderly people and people with medical appointments in Melbourne.

Cancer: drug costs

Hon. H. E. BUCKINGHAM (Koonung) — On the front page of the *Sunday Age* this week there was an article about the growing divide between patients able to pay for new life-prolonging cancer treatments and those who cannot. While the breast cancer treatment Herceptin has received a large amount of publicity recently there are also treatments for bowel cancer, lung cancer and leukaemia which are available to patients at their own expense but rarely subsidised by private health funds and not by the pharmaceutical benefits scheme.

The article also referred to a recent survey of oncologists at Peter MacCallum hospital which found that as many as a third of doctors were not even mentioning the possibility of these treatments if they thought the patient was not going to be able to afford to access them. This is a sad state of affairs with our national pharmaceutical benefits scheme. Many families and communities are going through hoops to provide funds to prolong the life of a loved one who is undergoing some of these treatments. I am sure I am not alone in this chamber in having a friend whose family is paying for their Herceptin treatment. I was very lucky to take part in a trial of Thalidomide treatment for multiple myeloma at Peter Mac which meant I did not have to pay the several thousand dollars each month it would otherwise have cost.

Cancer does not discriminate and come only to those who can pay for its treatment. Effective cancer treatments should be made available to all Australians who require them, not just to those who can afford them or who mortgage their houses to pay for them.

Planning: Maldon supermarket

Hon. D. K. DRUM (North Western) — The Mount Alexander Shire Council is currently dealing with a proposal for a new supermarket in the township of Maldon. Mr Werner Lau currently owns and runs the Maldon supermarket and he wants to build a new supermarket just around the corner, still in Maldon but not in the main street. He is being hampered by a very small number of people who are opposing the proposal. They are mindful that if you take the supermarket out of the main street it may impact on some of the other businesses in the small and historic township of Maldon.

Mr Lau has already spent some $15 000 putting up proposals, going through the necessary planning options and employing consultants to make sure that the new proposal meets all of the guidelines. Some 1200 people live in Maldon. When the panel held its hearing some 460 signatures were presented. In the other place today another 330 signatures will be presented, and I have a further 530 signatures on a document that is not properly worded, but all these people are supporting Mr Lau in his endeavours to build a new supermarket in Maldon. Later this week some three or four people from that delegation will come to Parliament to meet with the minister's staff in relation to this proposal.

On behalf of the people of Maldon we need to be supporting Mr Lau in his endeavours to build a supermarket in Maldon.

Federal government: smartcard

Mr VINEY (Chelsea) — I want to make a comment today on the extraordinary Orwellian doublespeak of the Howard government in relation to the new smartcard. The doublespeak that I alert the house to is the suggestion that the card will not be compulsory. The government has said that it will not be compulsory, but of course if you want to claim any government benefit, any welfare benefit or any Medicare benefit, then you will need to have it.

What this doublespeak means is that it will not be compulsory for the rich but will be compulsory for every ordinary person in Australia. This goes to the heart of the deep philosophical problem of the Howard government: it does not represent ordinary people. We see it time and again with things like the smartcard and the industrial relations reform. There is now the extraordinary situation where under the industrial relations reforms workers will not be able to get the occupational health and safety and other training they need to conduct their work practices correctly.

Here we have this further example of the Howard government doublespeak. Time and again we have it from Mr Howard. He uses weasel words to say, 'Of course it will not be compulsory to have this smartcard'. But if you want to get any sort of government benefit, which most ordinary Australians will claim, you will have to have it.

Water: Murrayville restrictions

Hon. B. W. BISHOP (North Western) — Constituents in the Mallee town of Murrayville have raised with me the outrageous situation forced on them by this city-centric government in relation to water restrictions. In a one-size-fits-all exercise where the logic seems to stop at the end of the tram tracks, the government has decreed water restrictions for residents in Murrayville.

Murrayville has no water from the Murray River and no water from a dam; it draws its water from a huge aquifer that stretches across the Victorian–South Australian border. We debated the management of the aquifer last year when The Nationals moved an amendment saying that rather than regulate a 20-kilometre strip each side of the border we should manage the aquifer globally. I will use an example to support this view: if you have a bucket of water and a stick across the top of the bucket, which is the Victorian–South Australian border, and you put a hole in one side of the bucket, the whole bucket will empty, so each sector must be considered.

These rules are ridiculous. Murrayville should be recognised as being different from the rest of the state with our residents treated in a practical way with the cooperation of the irrigators and with due regard to the South Australian situation. I call on the Minister for Water to step in and treat the residents of Murrayville in a sensible way rather than imposing inappropriate water restrictions which simply do not fit the area.

Eight-Hour Day: 150th anniversary

Mr SCHEFFER (Monash) — I draw the attention of the house to the 150th anniversary of the introduction to the building trades in Melbourne of the 8-hour working day on 21 April 1856. At the time employer resistance to employees working an 8-hour day precipitated a protest march of stonemasons that started at the University of Melbourne and ended on the steps of Parliament House.

Winning the 8-hour working day for some men, but not yet for women and children, was a great achievement for the working people of Victoria and the world, because it became a benchmark that led the way for workers everywhere.

The 8-hour working day and the industrial campaign that achieved it became a symbol that stood for more than simply the number of hours worked in any day. It came to represent the recognition that workers are human beings who have the right to a full social and cultural life outside their paid employment. Today, when many workers are working longer and harder and others are underemployed and when working conditions are under attack from the Howard government, the call for balance needs answering as much as it did 150 years ago.

On Friday, 21 April, I was proud to join the Victorian Minister for Industrial Relations in another place, Rob Hulls, the secretary of the Victorian Trades Hall Council, Brian Boyd, the secretary of the Australian Council of Trade Unions, Greg Combet, other members of this house and representatives of unions and community organisations as well as many citizens on the steps of the Parliament to commemorate this important anniversary.

Member for Koonung Province: comment

Mr SOMYUREK (Eumemmerring) — I call on the Leader of the Opposition, Mr Robert Doyle, to sack his

spokesman for consumer affairs, Mr Bruce Atkinson, for the disparaging and crude comments he directed against the people of Dandenong during question time yesterday.

I also call on Mr Atkinson to apologise to the Dandenong community for his churlish comments. As the Minister for Major Projects, Mr Lenders, was in the process of delineating details of the government's $197 million announcement last week for the revitalisation of Dandenong, Mr Atkinson interjected and made a highly offensive comment which implied that the people of Dandenong were associated with the wearing of ugh boots — for that read 'uncultured and uncivilised'. The implication was that the people of Dandenong are not worthy of the large amounts of money the government is investing in the suburb. Dandenong is now — —

Hon. Andrea Coote — On a point of order, President, I have to say that I was in the chamber at the time. I sit two seats away from Mr Atkinson, and I heard Mr Atkinson say that he wore ugh boots.

Mr Smith — What is the point of order?

Hon. Andrea Coote — The point of order is that Mr Somyurek is turning this right around and is absolutely out of line.

Hon. B. N. Atkinson — Further on the point of order, what has been indicated by the Deputy Leader of the Opposition is absolutely correct. The situation is that yesterday the minister actually took me out of context, and I moved to make sure that he corrected that record. Then he refused to do so. I actually gave a note to Hansard to indicate the correct context of that remark. I do not know whether it has appeared in *Hansard* this morning or not, but the fact is that what Mr Somyurek is saying now is outrageous in the sense that it is a total misrepresentation of my position and what I said yesterday. I am offended by what he is saying, and I ask that it be withdrawn.

The PRESIDENT — Order! Yesterday during the course of question time when the comment was made — I think it was on ugh boots — I heard the Honourable Bruce Atkinson refer to the fact that he wore the ugh boots — and I recall seeing a photograph of him on the front page of the *Herald Sun* wearing his ugh boots a number of years ago. The comment made today by Mr Somyurek implying that Mr Atkinson had made a remark about the people of Dandenong when he was in fact referring to himself was inappropriate. Mr Atkinson finds the comment offensive. Therefore I ask Mr Somyurek to withdraw.

Mr SOMYUREK — On the point of order — —

The PRESIDENT — Order! No. Sit down! I have asked Mr Somyurek to withdraw. He does not have an opportunity to raise a point of order. Mr Somyurek will withdraw.

Mr SOMYUREK — Reluctantly — —

The PRESIDENT — Order! I am directing Mr Somyurek to withdraw without qualification.

Mr SOMYUREK — I withdraw.

The PRESIDENT — Order! Mr Somyurek will now continue with his contribution or I will call the next speaker.

Mr SOMYUREK — Dandenong is coming alive. There is an atmosphere of hope and expectation around the place. It will not be long before Dandenong returns to its halcyon days. Consequently the hardworking and proud people of Dandenong are sick and tired of the constant derogatory comments made against their suburb by other people. This follows comments made by the shadow Attorney-General in Parliament last month about Moe standing for 'moccasins on everyone'. It seems the Liberals have developed this unhealthy and inexplicable fetish about regional and outer suburban areas and footwear — —

Hon. Andrea Coote — President — —

The PRESIDENT — Order! It is all right, there is not a point of order. That was a general comment.

Mr Somyurek interjected.

The PRESIDENT — Order! I am making the rulings here, not Mr Somyurek. If he wants to stay in the chamber I suggest he be quiet. Before people start to jump in, I was listening carefully and there were general comments about another incident that happened in another place. There have not been any specific comments made about a member of this chamber. Before anyone jumps in to raise a point of order or starts taking offence, I make it clear to the house that that was not offensive.

With 3 seconds to go, has Mr Somyurek concluded?

Mr SOMYUREK — I will stop there.

Princes Hill Secondary College: science facilities

Ms ROMANES (Melbourne) — I recently attended a very uplifting and inspirational event at Princes Hill

Secondary College. It was the opening ceremony of the refurbished science facilities at Princes Hill. The building project was made possible through the Leading Schools funding from the Department of Education and Training, and grants from Sustainability Victoria have enabled the incorporation of the innovative and environmentally sustainable design features.

It was inspirational because of the outcomes demonstrated in terms of the excellent facilities which showcase how science laboratories can be more sustainable in their operation, and also because of the process: the involvement of staff, students and parents in the design of the newly refurbished facilities. This collaboration extended to the development of new curricula with a focus on sustainability. Furthermore it was impressive to see the role of Friends of Science at Princes Hill. This is a group of parents, many of whom are leading Victorian scientists in medical and other fields, who want to promote love of science amongst their students.

Furthermore the students at Princes Hill Secondary College are sharing what they are learning about sustainability. They are leading a cluster of local schools with an interest in sustainability issues and promoting those ideas locally.

Dromana: Hickinbotham family fun day

Hon. J. G. HILTON (Western Port) — On Easter Sunday I was a guest of Terryn and Andrew Hickinbotham at their winery in Dromana. The occasion was the Hickinbotham Easter family fun day, the proceeds of which go towards a local community group — in this case it was Mornington Peninsula Youth Enterprises, which provides training for young people who have difficulties. Specifically the proceeds this year will be used to build a training kitchen.

There was entertainment on the day, including an Easter egg hunt and a grape crush challenge — seeing local councillors crushing grapes with their bare feet is always entertaining!

It takes months of organisation to put on such an event, and I am sure Terryn and Andrew could devote that time to the development of their business. It is to their great credit and a testimony to their terrific community spirit that for the last eight years they have made such a fantastic contribution to the local Mornington Peninsula community. I would like to thank Terryn and Andrew. I certainly had a terrific time, as I am sure did everyone else who attended.

Mining: Beaconsfield accident

Mr SMITH (Chelsea) — I rise to pay tribute to the deceased miner who lost his life last week in the Beaconsfield goldmine in Tasmania. To his family I send my sincere condolences. I also wish to salute the great Aussie spirit on display at the mine. The two miners still trapped are fantastic examples of that Aussie spirit. That it still survives today is something we should all be grateful for. I read in today's *Age* how one of the trapped miners demanded a copy of Saturday's paper from the manager because he wanted to look for a new job! That spirit is something to behold.

I also want to commend the Australian Workers Union officials and the union members, who have been fantastic in their support of the members and their families. To the federal Leader of the Opposition, Kim Beazley, I say this: you are absolutely right, although your timing could have been better. Kim Beazley does however remind us of the importance of workplace safety and having properly trained workers. No-one should downplay the importance of trade union training and the role it plays in working people's lives. I await with great interest the outcome of the inevitable inquiry. I am sure we will learn from that that the role of the union training those members received should not be downplayed.

BUILDERS WARRANTY INSURANCE: DATA

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — I move:

> That this house, in the interests of transparency and a fully informed builders warranty insurance market, calls on the Minister for Finance to —
>
> (1) mandate the collection on an annual basis from all insurance underwriters providing builders warranty insurance under Victoria's mandatory scheme details of:
>
> (a) the number of policies written and total premiums collected;
>
> (b) the value of building works insured under those policies;
>
> (c) the number and value of claims made against those policies; and
>
> (d) the number and value of claims paid against those policies in respect of the builders warranty insurance that they provide; and
>
> (2) publish the collected data in an aggregated, de-identified manner.

The motion before the house this morning is straightforward. It is designed to improve the operation of the mandatory builders warranty insurance market in Victoria, and it picks up one of the claims of the government — that it is an open and transparent government. In that sense it is a motion that the Liberal Party would seek government support for. The motion will not impose onerous conditions upon builders warranty insurance. It will not impose onerous conditions on the government. The implementation of the motion would greatly benefit the participants in the builders warranty insurance market — both builders and consumers, as well as insurers in defending their position — and it would come at little cost to either the insurers or the government. I look forward to the government supporting this motion later this morning.

Before going into details of the motion it is worth reflecting on the background of the builders warranty insurance market in Victoria and how it has evolved over the last 30 or so years. Builders warranty insurance was first introduced in the mid-1970s under the auspices of the Hamer government. By the mid-1980s the scheme had been mandated through the Housing Guarantee Fund Ltd. This was basically a government-operated builders warranty scheme whereby builders were required to make a contribution to the Housing Guarantee Fund. That fund was then available to pay out claims that arose from building activity, whether that was defective building, failure to complete contracts or the more familiar disappearance, death or insolvency of the builder, which are matters now covered by builders warranty insurance.

In the mid-1990s we saw a shift from the government-operated Housing Guarantee Fund to a market-based system. There were a number of reasons for that being done. I place on record at this point that the shift to a market-based system preserved the first-resort nature of builders warranty insurance. At the time the change was made the then Minister for Housing, the Honourable Rob Knowles, in introducing the Domestic Building Contracts and Tribunals Bill into the Council on 15 November 1995 noted that the proposal that came forward in 1995 was:

> … the result of extensive industry and community consultation, and a detailed consideration of interstate domestic building systems, as well as reports by the Trade Practices Commission (*Home Building Consumer Problems and Solutions*, November 1993) and the Public Accounts and Estimates Committee of this Parliament (eighth report to Parliament 'Housing Guarantee Fund Ltd', September 1994).

Minister Knowles in introducing the legislation outlined some of the problems that existed or were perceived to exist with the Housing Guarantee Fund (HGF), noting that:

> Many consumers have complained that HGF is bureaucratic and too slow to make decisions, that it is pro-builder and, on a more philosophical level, that there is an inherent conflict of interest in its multiple roles. At the same time some builders have also found HGF to be slow in its decision-making processes and have expressed concerns as to the qualifications of HGF inspectors and their ability to assess damages and facilitate dispute resolution.

In introducing the changes from a government-based system, the Housing Guarantee Fund, to a market-based system the minister noted that the government at that time had undertaken extensive consultation and had identified sound reasons for a shift from a government-based fund to a market-based system. I note also at the time of the shift in 1995 that the then Labor opposition supported that change; the member for Footscray in the other place as the then opposition spokesman on the matter supported the government's legislative change of 1995. I place that on record merely to record where the Labor Party was in 1995 on this issue because the Minister for Finance in this place has from time to time in his various contributions to debates equivocated as to whether the shift to a market-based system was a good one or not. It is certainly a matter of record that in 1995 the Labor Party supported the shift to a market-based system.

I also note on the question of whether we should retain a market-based system or go back to a guarantee fund as existed prior to 1995, that the report of the Victorian Competition and Efficiency Commission (VCEC) of October 2005 entitled *Housing Regulation in Victoria — Building Better Outcomes*, the final report, says at page 227, finding 7.5:

> The Victorian Competition and Efficiency Commission is not convinced that a shift from the private competitive provision of insurance to a Queensland-type government monopoly provider would deliver, in aggregate, superior outcomes for Victoria's housing construction industry and consumers.

I think it is worth placing on the record that 10 years after the change to a market-based system was introduced, the VCEC report, which considered builders warranty insurance in addition to a number of other substantial issues in the building industry, endorsed the change to a market scheme.

Given that we do from time to time have a debate with respect to builders warranty insurance as to whether there should be a return to a guarantee fund, I would also like to reflect upon the report entitled *National Review of Home Builders Warranty Insurance and Consumer Protection*, which was commissioned in 2002 by the Ministerial Council on Consumer Affairs

to look at the issue of builders warranty insurance. This was brought about by the severe developments that took place in builders warranty insurance in 2002, which I will come to later.

This report was undertaken by Percy Allan, and I will refer to it as the Allan report. It made a number of findings with respect to the advantages of a competitive market-based system relative to the previous guarantee fund. The key advantages of a market-based system that were identified in the Allan report included that it would: lower policy premiums due to competition; result in better services and more innovative policies due to competition; reward low-risk builders with price discounts; weed out high-risk builders who generate the most claims; and employ top insurance professionals with actuarial and other skills. Many of these were the reasons for the shift from a guarantee fund to a market-based system. I note that with the exception of Queensland all states and territories in Australia now have market-based builders warranty systems. Clearly with an efficient and competitive market those benefits that the Allan report outlined should have been realised by builders and therefore by consumers here in Victoria.

But a number of disadvantages of a market-based system were also identified in the Allan report, and I will comment on them. The first one was the prospect that insurers may fail. This report was written following the collapse of HIH, and it noted that HIH was one of the insurers that failed or needed support from government and commented on the situation with Dexta. It also noted as a disadvantage the emphasis on financial and not technical insurance criteria, which favours large builders. This issue has been raised repeatedly with me by operators in the building industry.

A key criterion by which insurance companies decide whether they will offer a policy or not is the financial viability of building companies rather than their actual track record in a technical sense in building and completing building projects. The risk assessment that takes place by the insurance companies is a very narrowly set one of looking at the evidence from builders purely as a financial matter and not the capability of builders to competently complete the projects for which they are seeking insurance cover.

Another disadvantage the Allan report identified was that it would be harder to obtain and analyse industry claims data. In essence, that is the basis of this motion. Because we have moved to a market-based system, with a number of private insurers providing insurance cover to the building industry, we do not have a mechanism by which industry insurance data is collected. I will expand on this later. This is a problem because the customers of building warranty insurers effectively operate in a vacuum when it comes to seeking policies. They do not know the aggregate level of premiums collected versus the value of work insured. They do not have any data on claims lodged and claims paid. While you would expect the insurance companies to make certain statements as to their claims history and profitability, the builders who are required to buy builders warranty insurance under the regime in Victoria are effectively operating in an information vacuum when it comes to making decisions, and the purpose of this motion is to address that concern.

One of the other disadvantages identified in the Allan report was higher operating costs arising from a fragmented market due to a lack of economies of scale in having multiple insurers. Again, because we do not have any detailed data on the builders warranty insurance market in Victoria, we cannot comment on whether the Allan report has been proved correct. I suspect anecdotally it would be correct, but in the absence of data it is impossible to say whether that has occurred. That is again a reason for the collection and publication of the type of data that this motion seeks to make available.

From 1995 to 2002 the market-based builders warranty system in Victoria worked very effectively, but in the early 2000s a number of events dramatically destabilised the insurance market in Australia. The first and most significant one that is thrown up is the terrorist attacks that took place in the United States of America in 2001. It is interesting to note when you talk to insurers or read the annual reports of insurance companies that the events of September 2001 are often cited as a reason for insurance markets being destabilised and insurance premiums rising. Five years on from the event it is worth reflecting back on the actual levels of exposure and claims that occurred in global insurance markets surrounding those events and putting them in perspective given aggregate claims to insurers for other events that take place on an annual basis.

I often think about the events of September 2001. In many respects we had an irrational response to what took place. I can certainly make that suggestion with respect to insurance. We saw how those events impacted not only on builders warranty insurance in Australia but also on public liability indemnity insurance. Basically all ranges of general insurance were apparently affected by the events of September 2001. From time to time I am given cause to think that was a largely irrational response from the insurance

industry, but then from time to time I am also given cause to think that the response of most governments to the events of September 2001 were also, when put in context, largely irrational. Nonetheless, those events of September 2001 were advanced by the insurance industry as one of the key reasons that that industry was destabilised, and builders warranty insurance was not exempt from that.

Compounding those issues in 2001 we had the collapse of HIH Insurance, which at that time had been the major underwriter of builders warranty insurance in Australia. That had an effect in all jurisdictions right around Australia on the builders warranty insurance market. Facing a situation of market failure with those two events occurring within months of each other, it was necessary for governments to intervene. The initial response of the Ministerial Council on Consumer Affairs was to commission the report by Percy Allan entitled *National Review of Home Builders Warranty Insurance and Consumer Protection* which I referred to earlier. That was followed by the introduction of the 10-point plan by New South Wales and Victoria.

The key aspect of the plan that was introduced in Victoria was to shift from the existing market-based system as a first-resort system to a market-based system that was a last-resort system. That is the key change that has taken place in the market over the last three years. I have to say that I do not believe that change has been particularly well understood at a consumer level. The change has certainly been understood at the builder level. Many of the builders who have come to me have expressed great concern at the impact that that change has had.

In essence the nature of the change is that we have gone from a system whereby a claim could be made on builders warranty insurance in the same way as you would make a claim if you had a car accident. If you have a car accident and you have a comprehensive motor vehicle insurance policy, you do not sue the other driver or the other driver's insurance company, you make a claim against your own insurance. That type of insurance where your first resort is to contact your own insurer and make a claim against your own insurer is a policy of first resort.

Now what we have in the builders warranty market is a policy of last resort — only if you have exhausted other options are you able to make a claim on builders warranty insurance. Under the regime introduced in Victoria that is only in the case of the death, disappearance or insolvency of the builder. What we had with those changes in 2002 was a dramatic shift in the nature and scope of builders warranty insurance. It is a shift that to this day is not well understood by consumers. The Victorian Competition and Efficiency Commission report, which was released by the Treasurer last month, reflects that it was not widely understood in some respects by consumers in Victoria.

I would like to spend a moment talking about the legislative basis of the scheme in Victoria. The mandatory builders warranty system in Victoria is established under the Building Act 1993, which is administered by the Minister for Planning. Section 135, under division 3 — insurance, is headed 'Order requiring insurance' and states in subsection (1):

> The Minister may, by order published in the Government Gazette —
>
> (a) require building practitioners in specified categories or classes of building practitioners or any part of a class or category of building practitioners to be covered by insurance; and
>
> (b) require specified classes of persons to whom section 137B or 137D applies to be covered by insurance for the purposes of that section; and
>
> (c) specify the kinds and amount of insurance by which building practitioners and persons in each specified category or class or part of a category or class are required to be covered.

Section 137A imposes specific requirements for insurance for domestic building work and section 137D empowers the Minister for Planning to make orders with respect to homes constructed on an owner-builder basis. So the legislative basis for the warranty insurance regime we have in Victoria is sections 135 and 137 of the Building Act 1993. That empowers the Minister for Planning to issue a ministerial order, published in the *Government Gazette*, and put in place a regime for builders warranty insurance.

I refer to the most recent iteration of the ministerial order, issued by the Honourable Mary Delahunty in her capacity as the then Minister for Planning and published in the *Government Gazette* on 23 May 2003. While it is not the ministerial order that introduced the change to the builders warranty insurance market, it reflects the changes put in place in 2002 and is the current requirement.

The relevant clauses of the ministerial order are 6, 7 and 8. Clause 6 outlines the basis on which builders warranty insurance for domestic building contracts is required and states:

> This part applies to a domestic building contract in which the contract price for the carrying out of domestic building work is more than $12 000 …

That is defined as an insurable domestic building contract.

Clause 7 goes to the required insurance and states:

> (1) Before entering into an insurable domestic building contract, a builder must ensure that —
>
> (a) a policy is issued that complies with this order (except part 3); and
>
> (b) the policy covers the building work to be carried out under the contract.
>
> (2) A builder may enter into an insurable domestic building contract without complying with subclause (1) if the contract contains a written condition that —
>
> (a) requires a policy that complies with this order (except part 3) and covers the building work carried out under the contract to be issued before the builder may enforce the provisions of the contract; and
>
> (b) requires a policy to be issued before any domestic work is carried out under the contract; and
>
> (c) states that no money (including deposit money) is payable under the contract before that policy is issued; and
>
> (d) requires the builder to ensure that a copy of the policy is provided to the building owner within seven days after it is issued.

Clause 8 goes to the nature of the type of warranty insurance that is to be held for a domestic building contract. It is headed 'Indemnity for loss' and states:

> (1) The policy must indemnify the building owner in respect of loss or damage resulting from non-completion of the domestic building work.
>
> (2) The policy must also indemnify the building owner in respect of loss or damage resulting from all or any of the following events —
>
> (a) domestic building work that is defective;
>
> (b) a breach of any warranty implied into the domestic building contract by section 8 of the Domestic Building Contracts Act 1995;
>
> (c) a failure to maintain a standard or quality of work specified in the domestic building contract;
>
> (d) conduct by the builder in connection with the domestic building contract that contravenes a trade practice provision.

So in clause 8(2) we have a broad requirement for builders warranty insurance that on the face of it covers many of the things that consumers would expect: defective building work, a failure to maintain a standard of build quality during construction and conduct by a builder that contravenes trade practices requirements. It provides a very broad framework for builders warranty insurance.

However, clause 8(3) then greatly narrows the entitlement for a consumer to claim on their builders warranty insurance, as it states:

> The policy may provide that the indemnity referred to in subclause (1) or (2) only applies if the builder dies, becomes insolvent or disappears.

That substantive change made in 2002 greatly narrowed the scope of builders warranty insurance. While there is recourse to all the provisions in subclause (2), the insertion of subclause (3) means that they apply only if the builder dies, disappears or becomes insolvent. If any of those three things does not happen, you have common law and administrative recourse only and no action can be taken against a builders warranty insurance policy. That is one of the key concerns that has been raised by the building industry. In the four months since I took on the role of shadow Minister for Finance I have had more representations on this issue than on any other single issue in any of the portfolio areas for which I have had responsibility. There is huge concern among people in the building industry about the nature of builders warranty insurance and the fact that many consumers are simply not aware of how restricted their policies are.

The other issue raised quite legitimately by the builders is that under the ministerial order they are required to take out the policies at considerable expense and yet the scope of coverage they are purchasing is very limited. The builders claim and the insurers counterclaim. The builders claim is that they are paying excessive premiums for insurance that provides limited cover and therefore limited exposure to the insurers. Because under the ministerial order they are mandated to have builders warranty insurance, they are of course forced to accept the terms imposed by the small number of insurers operating in the builders warranty insurance market in Victoria.

The builders claim that they are forced to accept high premiums for the insurance companies accepting very little risk and the insurance companies counter is that that is simply not the case. It is impossible for this Parliament, builders, insurers, consumers or the general public to identify which of those claims more accurately reflects the true situation because we are operating in an information vacuum when it comes to knowing exactly what is happening in the builders warranty insurance market in terms of level of coverage provided, number of claims and value of claims paid.

Again, that is the basis of this motion this morning — to get that information in a de-identified manner into the public domain so that a proper and informed debate can be had and builders and consumers can make proper and informed decisions about the type of insurance they take on.

With the shift in 2002 to the last-resort system as part of the builders warranty insurance market, two key deficiencies arose. The first is the lack of choice and competition in the builders warranty insurance market. In the Allan report of 2002 a comment was made about the option of a free market model. A free market model is one where builders and consumers are free to choose, obviously, between insurance companies, but are also free to choose the no-insurance option, which is a very strong, competitive pressure against insurance companies that the builders believe are charging excessive premiums.

In considering the free market model, the Allan report identified four key advantages. The first was that without regulation insurers would offer cheaper and more customised solutions — that is, that they would not be bound by the requirements of the ministerial order to provide insurance that fitted the clause 8(2) criteria and the clause 8(3) restrictions of the death, disappearance and insolvency of a builder.

The second advantage it identified was that builders insurance ratings would replace registration as a home buyer's best safeguard — that is, insurance companies would rate building companies by virtue of their premium and also by virtue of a published rating.

Whereas you could argue that in the current situation someone chooses a builder on the basis that they are a registered builder, under a free market system they would choose a builder based on their assessment by an insurance company. I hasten to add, though, that one of the concerns with the existing system is that insurance companies rate, assess and issue policies to builders based purely on their financial performance and not on their performance and competency as builders. I suspect that even in a free market system the situation would be the same.

The third claimed advantage — and this is very important, particularly given the current market arrangement — was that home buyers in a free market system do not develop false safety net expectations. That is a real concern we have with the current system. Consumers — home buyers and home builders — believe they have full coverage for builders warranty insurance, not realising that by virtue of the ministerial order they are covered only in the event of the death, disappearance or insolvency of their builder. If we had a free market system, whereby the only insurance a consumer had was the insurance they chose to purchase rather than that forced upon them by virtue of the ministerial order, they would know the nature and scope of the insurance coverage they had and would not have false expectations of being fully covered in the event of defective workmanship or any other matters that are covered in clause 8(2) of the ministerial order.

The other advantage identified in the Allan report was that consumers would take greater care in choosing a builder and buying a home. You could argue whether the option of not having insurance would cause home builders to make a better choice of a builder. I suspect the fact that mandatory insurance is in place at the moment would not diminish the care that home buyers currently take in the selection of their builders and choice of their homes. That might be a long bow to draw; nonetheless, it was identified as an advantage in the Allan report.

The Allan report also identified disadvantages, and it is worth placing those on the record as well. The first is that naive home buyers who were not insured may suffer massive losses. This issue was also raised in the Victorian Competition and Efficiency Commission report in relation to the current regime. VCEC has made recommendations, which I will come to later, that the government and consumer affairs need to do more to ensure that consumers of home building services are better informed about exactly what their insurance coverage is and exactly how the home builder market works. I do not think that particular disadvantage is limited to a free market model; I think it is a function of the existing model as well, and the fact that VCEC has recommended additional consumer information reflects that.

Another disadvantage identified by Allan was that without mandated insurance the premium pool may be too small to attract insurers. That is probably a valid concern. But I suspect that in time, with a full flushing out of the market, we would see insurers return to the market, just as we have seen from the market failure of 2002, where only one or two insurers were in place. We have since seen a number of insurers return, and I think it would be the same in that scenario.

The next disadvantage the report identified was that consumers might sue government for negligent building practices, and it cited as an example something that took place in British Columbia in Canada. In my view that is a legislative failure more than anything else. If governments in Australia were to shift to a free market model, it would be inconceivable that they

would allow a situation to develop where taxpayers were liable for the failure of consumers to have adequate building insurance. I do not think for a minute that such a scenario would be allowed to unfold here in Victoria.

The final disadvantage identified in the report was that unregulated private insurers may go bankrupt, leaving the state to pick up their liabilities. While it is not clear what Allan meant by unregulated insurers, it is a matter of public record that even with the existing mandated system we had the HIH collapse, which required intervention by the state, as well as the situation that arose subsequently with Dexter. From that point of view that disadvantage, although cited for a free market model, is no different to that which applies to the current mandated model.

However, although Allan considered the issue of a free market model, the Ministerial Council on Consumer Affairs in 2002 chose not to implement a free market model. As a consequence we ended up with the greatly diminished mandated model that we currently have here in Victoria and in other jurisdictions around Australia. At the time that was forced by the withdrawal of a number of companies from the insurance market. However, since then we have seen a number return to the builders warranty market. I cite examples from the Vero Insurance submission to the VCEC inquiry.

At page 18 are listed the insurers who are now operating in the market here in Victoria, including Vero itself. Its previous name was Royal and Sun Alliance. It has been a participant in the market from the time of the market failure. Also listed are AIIL, which was Reward Insurance and which has also been one of the players in the market from the time of market failure; CGU; Lumley; Exporters Insurance; Builders Ethics, which, according to the Vero report is supported by Munich Reinsurance; AXA; QBE and Australian Unity.

Since the introduction of the diminished mandatory scheme a number of companies have entered the builders warranty market here in Victoria. The government and the minister may argue that that reflects the success of their changes to the builders warranty regime. Equally builders would argue that it reflects a failure of the system and that the arrival now of nine insurers in the market reflects the fact that selling builders warranty insurance is like shooting fish in a barrel. Builders are mandated to have it, and it is so narrowly focused that it exposes the insurance companies to limited risk, so we have many players entering the market because they see themselves as being on a good wicket. Of course this claim cannot be tested in the absence of the market information that the motion before the house seeks to gain. Again, that is one reason why it is important that we have the type of market disclosure that the Liberal Party is seeking to achieve through this motion.

Earlier this morning I outlined some of the benefits of a fully informed market, and there is no doubt that there is a lack of information among the insurers, the government, the builders and consumers. It is interesting to go through the insurance company submissions to the Victorian Competition and Efficiency Commission last year. Many do not contain any market information or market information was submitted but some was withheld as being commercial in confidence and does not appear in any of the published submissions on the VCEC web site. I would have concerns if the commission based its decisions, findings and recommendations on information that was effectively provided by insurance companies in confidence and therefore not able to be tested by other witnesses, hearings or other entities that made submissions to the inquiry.

I can appreciate why individual insurance companies sought to keep that information confidential, but it does not help ensure there is a fully informed debate around the builders warranty insurance industry. It does not help VCEC and other submitting parties to that inquiry. Most importantly, it does not help consumers and builders to arrive at insurance decisions.

Let us be clear; that is what this morning's motion is really about. It is about ensuring that builders and consumers are in the best informed position to make decisions in respect to builders warranty insurance. To be quite frank, it also allows the insurance companies to defend their positions. I will generalise and say it is a consistent theme throughout the VCEC inquiry and the submissions to it that the builders said in effect that the insurance companies were gouging and the insurance companies said in effect, 'No, we are pricing our products appropriately for the risk we are assuming'. In the absence of any market information, it is impossible to test either of those positions.

In that sense I was disappointed with the final VCEC report released last month by the Treasurer. The commission is under the direction of the Treasurer who gave it the terms of reference in 2004 for the inquiry into housing regulation in Victoria. Chapter 7 of the final report deals with the issue of insurance, not just builders warranty insurance but also plumbing insurance and other insurance matters surrounding housing. The Treasurer released both the final report and the government's response to the VCEC

recommendations. I was disappointed to note that while the government has supported, or supported in principle, all of the recommendations made by VCEC, the nature of those recommendations is very limited in scope in terms of making changes to the builders warranty insurance market. Most of them relate to providing additional consumer information, and while that is something that I believe needs to be done, particularly in the absence of informed consumer knowledge about exactly what they are covered for under builders warranty insurance now, I am disappointed that VCEC did not go further in recommending a more transparent and informed insurance market, which it could have done. Unfortunately its recommendations are quite limited in terms of providing additional consumer information rather than further tangible reform of the builders warranty insurance market.

Before I proposed this motion I made a number of direct representations to insurance companies. Early last month I made contact with the Insurance Council of Australia and the Australian Prudential Regulatory Authority (APRA) as well as with most of the insurance companies providing builders warranty insurance here in Victoria. The nature of my contact was to ask whether they would provide me with their basic market information including the number of policies they write, the value of the policies, the value of the work they cover and some information about their claims history — how many claims they have had and what those claims have been paid out at. I wanted basic information to get an understanding of how the Victorian builders warranty insurance market is operating.

In one sense I was not surprised by the response I received from the insurance companies. The Insurance Council of Australia indicated that the information I sought was 'not publicly available at present in Victoria'. I received some direct responses from insurance companies. One was addressed 'private and confidential' so I will not identify which company it was, but it stated that 'the information requested is not made publicly available by any insurer in relation to the Victorian market'. A further insurance company offered an off-the-record private briefing, which I have arranged to take up, but it indicated that no formal response would be made other than that which was already on the public record.

To date I have not received a response from APRA, the commonwealth regulator, and given how important this issue is to builders and consumers in Victoria I am disappointed that it is yet to respond when the Insurance Council of Australia and most insurance companies have already done so. I do not believe that the responses from the insurance companies are unreasonable in the sense of them not wanting to publicly disclose their individual market information, and that is why the motion before the house this morning is important. It allows for the collection and publication of aggregate information on this market and avoids the situation of individual insurance companies needing to disclose their individual market positions, including market share, et cetera. It will have the benefit of providing insurers, consumers and builders as well as the government with far better information than is currently available on which to make decisions with respect to builders warranty insurance.

I turn to the specific elements of the motion before the house this morning. It is addressed to the Minister for Finance, and the reason I have identified the Minister for Finance as the appropriate person is that although the Building Act under which warranty insurance is imposed is a matter for the Minister for Planning, the Minister for Finance has had carriage of the reforms of the builders warranty insurance market and indeed all the reforms in insurance markets that have taken place since 2001. I therefore felt it appropriate that the Minister for Finance deal with this matter.

The motion calls on the minister to mandate the collection of basic and specific market information. The first piece of information is the number of policies written and total premiums collected. This is to give an indication of the size and scope of the builders warranty insurance market. We know that roughly 80 000 building permits are issued each year in Victoria. An indication of the total premiums collected would go a great deal of the way to our knowing how much consumers are paying for their insurance cover.

The next piece of information is the value of building works insured under those policies. Obviously the risk exposure for insurance companies relates to the value of the work they are covering, and the ability to express premiums as a percentage of works undertaken would give some indication not only of the potential profitability but also the risk assessments that have been made by insurance companies as to the respective risk exposure to building works in Victoria. The number and value of claims lodged against those policies is important to know to determine how much insurance companies are able to retain as profits versus payouts on claims. It is also important to know the actual value and number of claims paid, because obviously not every claim lodged will be paid or paid in full.

The provision of that information to the Department of Treasury and Finance and the publication by the

department of the collected data in an aggregated and de-identified form would go a long way to providing Victorian consumers, builders and the insurance market with the information they require for them to have a fully informed debate and to make commercial decisions about the building warranty insurance market. It would have the advantage that no commercially sensitive information would be revealed publicly and therefore no individual insurer should have concern about releasing this information to the government. It would address the key tenet of this motion, which is transparency in the builders warranty insurance market.

If passed, this motion would impose little or no cost on insurers or the government and would provide much-needed market information for builders and consumers. Additionally, publishing the data in a de-identified aggregate form would allow insurers to provide useful information to enhance the operation and understanding of the builders warranty insurance market without compromising their commercial sensitivities. Importantly information would also be provided to the Victorian public, which would allow for clear debate and clear decision making on the builders warranty insurance market. This is a straightforward motion which, if passed, would go a long way to addressing concerns of the builders and concerns expressed by the insurance companies. I urge members of the house to support the motion.

Mr PULLEN (Higinbotham) — The motion moved by the Honourable Gordon Rich-Phillips deals with an important issue, but I am surprised that he is the lead speaker for the opposition. He has explained that away by saying he is the spokesperson on finance, but he should inform a couple of his other colleagues that he is the spokesperson on finance because I asked a couple of them yesterday what portfolios he had and they did not know he had the finance portfolio. I know it has gone across from Mr Strong, who has been deeply involved in this issue.

I shall go through the motion. It is a sensible motion, but it is important that we examine the facts before we go down the path of deciding whether to support it. The motion states:

> That this house, in the interests of transparency and a fully informed builders warranty insurance market, calls on the Minister for Finance to —
>
> (1) mandate the collection on an annual basis, from all insures underwriters providing builders warranty insurance under Victoria's mandatory scheme, details of;
>
> (a) the number of policies written and total premiums collected;
>
> (b) the value of building works insured under those policies;
>
> (c) the number and value of claims made against those policies; and
>
> (d) the number and value of claims paid against those policies, in respect of the builders warranty insurance that they provide; and
>
> (2) publish the collected data in an aggregated, de-identified manner.

I have had an interest in this issue for some time because I have been contacted regularly on it by a Mr Phil Dwyer of the Builders Collective of Australia, as I know would most members of the house. It is also interesting that lately we have been getting junk mail from the Liberal Party, which I presume has gone to most Labor-held electorates. A similar newsletter is used everywhere, but I happened in my electorate to get one from the Honourable Chris Strong. This particular publication has a lovely photograph of part of the Liberal team. I noticed that the one that went out in Sandringham had a photo of the member for Sandringham in the other place in it, but they flicked him out of this one. I do not know why that happened but I thought it was a little unfair.

This publication from Mr Strong states:

> Concerned resident Stephen Hartney inspects the state of Dingley Primary School with state Liberal leader Robert Doyle.

Mr Hartney does not live anywhere near Dingley. In fact he lives in Highett and is the Liberal Party candidate for Mordialloc, so the publication contains some misinformation. An article in the publication is headed 'Local concerns over police staffing plan'. That has nothing to do with the government; it is what has been put up by the police in the area. There is a picture of what appears to be Mr Hartney walking around somewhere and the caption under the photograph refers to 'law and order issues and police staffing at Cheltenham'. I have a lot to do with the Cheltenham police station because it is just around the corner from my place. I know the police are very happy with the level of police staffing at Cheltenham.

There is also a picture of the Leader of the Opposition in the other place, Mr Doyle, with the Commonwealth Games flag. I do not want to say too much about that, but there has been criticism in this chamber of Labor Party members and Commonwealth Games items.

On the back page we have the usual stuff that appears on the mail that is being sent around the electorate at the moment. It states that home detention for criminals

will be abolished under the Liberals. I advise the house that all is going well with that, and we have the statistics to prove that. It says that in dealing with hoons the Liberals will give police powers to move on troublemakers. Police can do that anyway. It says that for small business the Liberals will set up a new independent body to cut red tape. I have never heard such ridiculous stuff in all my life. Clearly we already have a small business commissioner who is doing these things. It says that the Liberal Party is going to set up and aged care ombudsman and introduce half tolls for cars and motorcycles until 2014. On local radio only last week I asked the Deputy Leader of the Opposition, 'What programs are you going to cut?'. There was silence. It is good to see that The Nationals will not support that silly policy, which will never be introduced because clearly the Liberals will not be in government.

I am sorry Mr Strong is not in the chamber, but I know he will be listening. Another Liberal Party publication states:

> After 14 years as the member for Higinbotham Province representing the people of Mordialloc in the state upper house, Chris will be leaving Parliament at the next election.

It then goes on to say:

> It has been a privilege to represent the citizens of Bentleigh.

What is going on? Mr Strong has obviously not checked out this publication. I want to know who paid for this publication by the Liberal Party.

What is all this leading up to? It leads me to the front page of this particular document. It happens to be headed 'New home owners are at risk: MP'. It goes on to say:

> Local builders and home buyers are at risk and without proper consumer protection, says upper house MP Chris Strong. Building or buying a new home? Then beware, says upper house MP Chris Strong. Chris has been working closely with local builder and Builders Collective of Australia national president, Phil Dwyer, to expose the failures of the current Bracks government system and to force through reforms.

Force through reforms? I do not know exactly what that means. Certainly Mr Rich-Phillips in his contribution did not cover forcing through any reforms. I would like to know from the Liberal Party exactly what it is talking about. I will leave a bit of the other gobbledegook out; but it ends up by saying:

> Chris Strong will continue to work to get a better deal for builders —

I have no doubt he will because he has brought up this issue in the chamber on many occasions, and hopefully he will be able to contribute to the debate later on —

> and consumers by reforming the current failed system.

We have not heard one word from the Liberal spokesman on finance today about reforming the system. It could be like the usual stuff from the Liberal Party — no policies at all! It is good see that Mr Strong has just come back into the chamber. He might have been out there fixing up the point I raised about Mordialloc and Bentleigh. I realise it is a typographical error.

I want to place on record my appreciation of Mr Dwyer. He has constantly contacted me about this issue. I have a big file on it, as no doubt other members and certainly Mr Strong would have. I do not know whether Mr Strong has looked at another email from Mr Dwyer this morning pointing out some issues in relation to the Queensland system. I will cover that issue a little later in my address.

A number of my colleagues in the other place — the member for Mitcham, Tony Robinson; the member for Burwood, Bob Stensholt; and the member for Mordialloc, Janice Munt — have taken great interest in this issue. We have had many meetings with ministers, the insurance industry and the insurance council. Two particular people who have assisted me in trying to get my head around the whole issue have been Paul Jameson, the general manager, warranty division, of Vero Insurance Ltd and Peter Jamvold of the Insurance Council of Victoria. I have had discussions with them about this issue.

I think it is important that we have a good look at what builders warranty insurance will cover. Mr Rich-Phillips did a pretty fair job on that, but I was a little concerned when he quoted from a Consumer Affairs Victoria fact sheet and said that consumers are not being given enough information. Certainly we have attempted to give plenty of information, but I will place on record — and I do not think too many people make *Hansard* their bedtime reading — what builders warranty insurance is all about so that it can be picked up if people are looking at *Hansard*. The fact sheet states:

> Builders warranty insurance now only covers homeowners for defects and incomplete work in cases where the builder —

Mr Rich-Phillips did cover this —

> has died, is insolvent or has disappeared.
>
> In all other cases it is the responsibility of the builder to fix defects or finish incomplete work. Building Advice and Conciliation Victoria (BACV) was set up to help homeowners and builders work together to resolve building disputes.

…

> Builders must take out builders warranty insurance for most home building or renovating with a contract price over $12 000. Before anyone signs a domestic building contract, ask to see and note the builders warranty insurance. Make sure the cover is current and appropriate for the work on your site.
>
> Builders must be registered with the Building Practitioners Board for most work over $5000.
>
> …
>
> Claims on policies issued after 30 June 2002 may only be made when the builder is dead, insolvent or has disappeared.
>
> Insurance in these cases now covers:
>
> > non–completion of building work and structural defects for up to six years;
> >
> > non–structural defects for up to two years.
>
> The minimum amount of cover is now $200 000.
>
> Policies usually limit claims for non–completion to 20 per cent of the original contract amount
>
> Residential buildings over three storeys high, containing two or more dwellings, do not require builders warranty insurance. If you buy one of these homes, make sure your purchase contract has defect liability inclusions.
>
> When you buy a home off the plan and are not contracted to the builder, ensure that your contract has defects liability clauses included.

I add that we are still the only state in Australia that does not charge stamp duty on the building — it is just charged on the land — in off-the-plan purchases. It is one of the great things about being here in Victoria.

Consumer Affairs Victoria also suggests to people who are going to purchase a property that they get at least three quotes from registered builders. It advises that quotes are a guide only, not a contract. Buyers should ask for referees, visit the builder's most recent work and talk to the owners about the workmanship. It advises that buyers should compare quotes carefully and ensure that they all contain every item requested. They should make sure the communication with the builder is conducted in writing. How many times do you hear people say, 'He told me this' or 'He told me that.'? Buyers should get it in writing. Customers should ensure that they or the builder have obtained the right building permits from a building surveyor. Customers should not sign a blank document authorising the builder to lodge all documents. They should read the permit applications and sign them if they agree. They should remember that buying a home is the biggest purchase most people make.

Consumer Affairs Victoria also suggests that people not allow the builder to name them as an owner-builder on the permit unless they intend to take full legal responsibility for the building works. Buyers should establish and maintain contact with their building surveyor and consider employing their own building experts to inspect the progress and quality of building work. Those people can be employed at a reasonable cost, and they do an excellent job.

We often hear, from the opposition in particular, that Consumer Affairs Victoria is not doing its job and that shonky building work goes on. We know shonky work does take place, and I have in front of me a list of people who have been prosecuted in respect of building works. I will pick out a couple of them. Nick Butera of Reservoir was prosecuted for being an unregistered and uninsured builder who demanded an excessive deposit, used the incorrect contract and engaged in conduct that misled the consumer. He was convicted and fined $15 000 with costs of $1295. Another one on the list is Nicholas Racovalis of Lalor. He was prosecuted for being an unregistered and uninsured builder who accepted an excessive deposit, used incorrect contracts and failed to complete the work. He was convicted, fined $8000 and ordered to pay $9842 in compensation to consumers and $1603 in costs. That matter has been appealed.

The next one on the list is Eco Floors Pty Ltd of Lower Templestowe. The company was prosecuted for accepting payments but failing to supply services. The company was convicted and fined $5000. There is also an entry for a director of the same company, Eric Buehler. As a director of Eco Floors Pty Ltd of Lower Templestowe he faced the same charges as the company. He was fined $8000 and ordered to pay $5000 compensation to consumers and $1330 in costs.

I will just quote a couple more, because it is important to put on the record that the government is doing its job when builders do not complete work as they should do.

Graeme Ford of Coolaroo was prosecuted for being an unregistered and uninsured builder who used incorrect contracts, demanded excessive deposits, accepted payment without supplying goods and services and traded under an unregistered business name. He was convicted and fined $10 000 and ordered to pay $971.20 in costs. The last one I will cover is Joseph Capri of Fawkner. He was also prosecuted for being an unregistered builder. He was fined $49 000 and ordered to pay $15 535 compensation and $1792 in costs.

Let us have a look at some good news in relation to building in Victoria. I happened to come across a media

release put out only yesterday by the Minister for Planning in the other place. I will touch on only parts of it. It says:

> Victoria's building permits issued during the first quarter of the year have reached record levels, exceeding $3.7 billion, 17 per cent higher than the first quarter of 2005.

Further on it says:

> Strong activity was recorded virtually across the board. Residential building work increased by 37 per cent to $373 million, with domestic building work rising slightly by 4 per cent to $2 billion.
>
> Mr Hulls also said the number of permits issued for the month of March alone was a highlight of the quarter. Building activity grew by 25 per cent in March 2005, to $1.6 billion — the highest level recorded in the month of March since the Building Commission began keeping building activity statistics in 1997.
>
> …
>
> Across Victoria in the March 2006 quarter, compared with the March 2005 quarter, building permits issued in:
>
> inner-Melbourne were up by 18 per cent to $1.41 billion;
>
> outer-Melbourne rose 10.5 per cent to $1.37 billion; and
>
> rural Victoria increased by 25 per cent to $980 million.

We know the government has done so much for regional and rural Victoria, and we know what the opposition referred to it as: the toenails of the state. We have certainly lifted the state up. Here are some interesting statistics that were released yesterday to update people. The south-west of Victoria jumped 52 per cent to $320 million; the north-west, up in Mr Drum's area, rose 16 per cent to $171 million; north-central was up 23 per cent to $161 million; the north-east, up in Mr Baxter's area, grew 17 per cent to $155 million; and Gippsland increased by 5 per cent to $174 million. They are very impressive figures. It is important to add to this because we must hear the good news when these motions are moved. As I said, I think it is a reasonable motion that has been moved. Another media release states:

> Top 10 rural municipalities for the 2005 calendar year included:
>
> 1. Greater Geelong — $567.5 million —

that will be Mr Koch's new electorate; I can see him sitting over there at the moment —

> 2. Greater Bendigo — $348.1 million;
>
> 3. Ballarat — $242.8 million;
>
> 4. Surf Coast — $190.7 million;
>
> 5. Mildura — $166.5 million;
>
> 6. Bass Coast — $153.7 million;
>
> 7. Latrobe — $142.7 million;
>
> 8. Greater Shepparton — $141.4 million;
>
> 9. East Gippsland — $120.7 million; and
>
> 10. Baw Baw — $115.3 million

It goes on to state:

> Victoria has now achieved building approvals (in seasonally adjusted terms) in excess of $1 billion per month for 49 consecutive months.

That is a fantastic result. The latest figures from the Australian Bureau of Statistics, until 31 March — —

Hon. David Koch interjected.

Mr PULLEN — We could have a long discussion on that, Mr Koch. We know why interest rates are low — because of the Hawke and Keating federal governments' reform of Australia's economy. Victoria had the highest number of approvals of new homes of any state.

Let us have a look at builders warranty insurance in more detail to understand why buildings are going so well in the state. It is important to have a look at the history. I thank Mr Rich-Phillips; I enjoyed the run-through of the history of setting up a few things which he gave. We know that HIH collapsed and that the Bracks government introduced a range of reforms to encourage insurers to remain in the building warranty insurance market. The reforms were made to retain confidence in the sector, ensuring adequate protection for home owners and builders alike. Victoria and New South Wales introduced those reforms under the 10-point plan, and this model has been followed in most of Australia. At the time of modifying the insurance arrangements the Bracks government also set up a free conciliation service. This is a significant part of the consumer protection package.

Given that some time had past since these reforms were introduced we asked the Victorian Competition and Efficiency Commission to review the regulation of the housing sector, including the adequacy of Victoria's builders warranty insurance system. Another Bracks initiative was the setting up of the Victorian Competition and Efficiency Commission (VCEC). I will give some of the history of that too because it is important to look at what its responsibilities are in relation to the report it has just completed. It was established on 1 July 2004 under the State Owned

Enterprises (State Body — Victorian Competition and Efficiency Commission) Order of 2004.

The Victorian Competition and Efficiency Commission incorporates and expands the function of the Office of Regulation Reform and Victoria's competitive neutrality unit. The commission is supported by a secretariat provided by the Department of Treasury and Finance. A framework agreement is in place between the Treasurer, the secretary of the department and the chair of the commission to ensure the independence of the secretariat in advising the commission. The commission has three core functions. They are reviewing regulatory impact statements and advising on the economic impact of significant new legislation; undertaking inquiries into matters referred to it by the Victorian government; and operating Victoria's competitive neutrality unit.

It is important for me to mention the names of the people who are on the VCEC. The commission is headed by a chairperson, and there are between two and four additional commissioners, who are appointed by the Governor in Council for terms of up to three years. Graham Evans was appointed as the chair of the commission on 1 July 2004. He is a former BHP Billiton vice-president with extensive experience in the public and private sectors. He is also a former secretary of the commonwealth Department of Transport and Communications and the Department of Primary Industries and Energy, former Deputy Secretary, Department of the Prime Minister and Cabinet and a member of the Order of Australia. The Governor has also appointed two more VCEC commissioners: Alice Williams and Robert Kerr, further strengthening the VCEC's expertise. I will not go into the background of those two people, but obviously all are doing a fantastic job at the moment.

This commission undertook a housing construction inquiry. It has concluded that public inquiry into the regulation of the housing construction sector and related issues, and the report has been referred to by Mr Rich-Phillips. It presented its final report to the Treasurer on 17 October 2005. The Victorian government asked the commission to inquire into and report on six issues, but I will only cover the one we are looking at now — that is, the benefits and costs, duration and impact on competition of permits, licences and fees issued by the Victorian regulatory bodies for housing construction and related practitioners.

This particular review aimed at ensuring the regulation gets the balance right and that the key sector continues to thrive while home owners and small businesses are protected. The VCEC recommendations do not include any — and this is important — significant adverse findings on the builders warranty insurance scheme. The report also noted increased competition with several new entrants in the market. It states the product is being differentiated, availability has increased and premiums are reducing. I will cover a little bit more of that in a moment.

The government's response to the VCEC's final report supports the recommendations addressing insurance, including recommendation 7.2, calling for the finalisation of guidelines for the provision of information on premiums and claims — that is very important — from warranty insurers.

The last-resort insurance system operating in Victoria has resulted in new insurers entering the builders warranty market and reductions in insurance premiums for consumers. Figures from Vero, the largest of the eight or nine building warranty insurers, show that from 1 January 2000 to 30 June 2005 it processed an average of 35 new claims and two reported builder insolvencies each week — about 2400 claims each year. This does not include claim figures from other insurers. Since July 2002 Vero also settled approximately 5500 Victorian-based claims.

Commonwealth and state data show that our approach has had no impact on confidence in the building sector. In fact the reverse appears true, with Victorian building approvals at record highs, as I have already stated. The Insurance Council of Australia estimates that the total builders warranty insurance (BWI) market annual premium income is around $100 million. Victoria has about one-third of this, and is a long way short of some claims of $350 million to $400 million annually.

I have mentioned Mr Dwyer, the president of the Builders Collective of Australia. He continues to lobby for change to the BWI scheme in both New South Wales and Victoria. I say good on him, because I learn a lot from him. Being an old-time socialist I certainly do not disagree with the view that we should have a government insurance agency, but the figures do not stack up at the moment. I give credit to Mr Rich-Phillips for pointing out the competition in the market in relation to what has happened, but I have never been one for closing down government agencies. My own party did it with the Commonwealth Bank, and the Kennett government closed down the government-run insurance industry in relation to building matters. I get the shakes when I see good government enterprises being sold off, but that is another story for another day.

Mr Dwyer advocates replacing the current last-resort insurance scheme, which comes into effect when a builder dies, disappears or becomes insolvent, with a first-resort scheme allowing consumers to make a claim while the builder is still operating. The only scheme operating in Australia on anything approaching a first-resort basis is in Queensland. That is a government-backed scheme that in the first instance requires builders to go back and fix. If the scheme pays a claim, it then pursues the builder for repayment.

Mr Dwyer has said there are few if any successful claims by consumers in the last-resort scheme. However, Vero disputes this. Its statistics show up to 2400 claims per year in Victoria. The Victorian and New South Wales joint effort in the BWI sector has resulted in new insurers entering the market to provide both greater choice and greater competition for builders. A reporting system is also being developed with the cooperation of insurers to monitor both premiums and claims data.

I met with Paul Jameson of Vero Insurance and Peter Jamvold of the Insurance Council of Australia. I took down some rough notes at the meeting I had with them in February. They claimed that this system is the most comprehensive product in the world. I do not know what other systems are in existence in the world, but that was the claim from the insurance companies. They said they have their own advisory council with builders — they must adhere to the 10-point plan. The Australian Competition and Consumer Commission controls the price of the premiums. This is what I was told. The average fee — $845 down to $685 — has been reduced recently. They say in Victoria premiums are down by 18 per cent and they expect to reduce them to the Western Australian level. I do not know what that was, but that is what was said. The vast majority of claims go through without any problems whatsoever.

Vero has stated that its decision to reduce premiums was a result of the reforms of the home insurance warranty market introduced by the Victorian government. In addition Vero announced that builders with a turnover of up to $2 million per annum — that is not a lot when you consider the price of home building and stuff like that these days — no longer needed to provide detailed financial statements. Instead these builders must complete only a simple outline of their assets and liabilities. This decision will affect a significant number of smaller Victorian builders and will make it easier for them to comply with the eligibility criteria to obtain builders warranty insurance. CGU Insurance, one of the companies mentioned by Mr Rich-Phillips and one of the major arms of the Insurance Australia Group, entered the building warranty insurance market in Victoria in May 2004. In its media release announcing its intention to enter the market IAG stated that its decision was largely due to our recent reforms which aimed to create an efficient, effective and sustainable regulatory environment. These announcements were great news for the building industry and are evidence that the reforms implemented by the government are working.

Before I move off the insurance companies, I am not foolish enough to say they are doing it because they have got big hearts. At the end of the day an insurance company has to make money, as long as it is at a reasonable level. That gives some credence to the motion in relation to that issue.

The report to the government by the Victorian Competition and Efficiency Commission (VCEC) into housing regulation shows that the builders warranty insurance market is maturing and the increase in competition and product offerings has made it easier for builders to access insurance. The report states that it is a combination of the new entrants, increased competition and product offerings which has enhanced the availability and affordability of builders warranty insurance.

Victoria has reached an in-principle agreement with the insurers to provide data on essentially the same basis as it is provided in New South Wales. Victoria is currently discussing with insurance companies the development of an insurance industry deed covering market practice and claims-handling guidelines drawing on elements of a recently implemented New South Wales insurance industry deed. This deed will include a provision for the collection of claims and policies data to enable aggregate analysis of market trends, which is one of the points in Mr Rich-Phillips's motion.

The VCEC finding 7.1 states:

> On balance, mandatory builders warranty insurance appears justified in view of the information asymmetries facing consumers and the likely net benefits that such insurance provides. Mandatory insurance as a condition for registration also provides benefits in removing builders with a higher risk of failure from the pool of registered builders. In doing so the policy is likely to improve the stability and confidence in the industry.

The review aimed at ensuring regulation gets the balance right, ensuring this key sector continues to thrive while homeowners and small businesses are protected. The report also noted increased competition with several new entrants in the market. The product is being differentiated, availability has increased and premiums are reducing. This backs up my meeting with the insurers.

The government's response to the VCEC final report supports the recommendations addressing insurance, including recommendation 7.1 calling for better information describing warranty insurance and 7.2 calling for the finalisation of guidelines for the provision of information on premiums and claims from warranty insurers. A voluntary guide will be consistent with the intent of the VCEC to provide a better industry without regulating or legislating.

In Victoria builders warranty insurance is purchased by builders from the commercial insurance market. This is in contrast to Queensland's statutory scheme, which is a monopoly provider. The Queensland scheme does not rate the risk of builders, leading to an inequitable situation where builders at lower risk of insolvency cross-subsidise higher risk builders. Furthermore, the Queensland Building Services Authority, which manages the statutory insurance scheme, also regulates the building industry. In Victoria there is a separation between insurers and the regulator of the building industry, the Building Commission. This ensures that the building industry is regulated independently and impartially.

These practices were supported by the recently released draft report on housing regulation. The Victorian government will continue to support commercial insurance arrangements for the building industry as they provide greater competition and promote cheaper premiums.

Data available from the Building Commission shows that our use of a competitive insurance market has not impacted on building work in Victoria — the statistics certainly show that. Any builder registered with the Building Commission needs to demonstrate appropriate insurance. If insurance were a major issue and could not be obtained or afforded by builders, you would expect that the number of registered builders would sharply decrease. However, there has been no significant change in the number of registered builders in Victoria in the past few years. There were, and there still are, around 10 000 registered builders in the state.

I said earlier I got an email this morning from Phil Dwyer but I have not had the chance to go through all of it yet. It states:

> Please find the 2004–05 BSA annual report. All the information you could ever want to know about warranty insurance claims and management in Queensland is contained in these reports and can be accessed —

from a web site. The email further states:

> It proves that with proper and transparent management a government-run warranty scheme can be profitable and deliver genuine consumer protection.

I am not arguing against that point — we are just talking about the competition angle. I went into the web site, but as I got this only early this morning I have not had a chance to read through the report. I was interested in what I saw. There is a comparison of licence fees. The annual licence fee for a builder in Queensland is $225 and in Victoria is $180. I thought that meant we were already in front by $45. But there is a footnote which says:

> Victoria charges $90 per year for each additional licence class held and a levy of 0.128 per cent on building contracts. Queensland charges one fee irrespective of the number of licence classes held.

My understanding is that it averaged out that most builders must have two licences, thus $180.

The other thing that caught my eye was insurance, remembering that the Queensland system controls the builders as well as insurance, whereas there are two separate bodies in Victoria. The report also says:

> Despite the increase in the number of underwriters providing home warranty insurance interstate and a return to 'competitive' premiums, Queenslanders continued to enjoy cost-effective home warranty premiums.

That is 'cost-effective' home warranty premiums. It continues:

> The range of interstate figures provided is across all licence categories interstate. Rates are effective 1 July 2005.

If we look at the cost on a $250 000 home, the Queensland premium is $1450 and the interstate premium range — I do not know where they have got these figures from — is from $1193 to $1270. That looks a bit low to me, but it is an interesting statistic.

As I have already mentioned in my contribution to the debate, we are currently negotiating the outcomes of the proposal that the government has access to builders warranty data. This motion should not pre-empt that. We are unable to support the mandating of these arrangements. The general intent of the motion is not a problem — it is just the compulsory nature of the proposal. My understanding is that the agreement between the government and the opposition is that we do not amend motions that are put up.

By requiring the mandating of the proposal, the opposition would tie us into legislation that would delay the implementation, I am advised, by at least 18 months. The Bracks government is committed to ensuring that there is proper scrutiny of this market as

soon as possible. Therefore we cannot support the motion of mandating the collection of this data. The government supports the intent of the motion but not its mandatory nature.

Hon. P. R. HALL (Gippsland) — I am pleased to talk about builders warranty insurance this morning because it has been a subject of interest to me over a number of years. In search of some information on this subject I have used before, I did a quick *Hansard* search this morning and saw that over the last couple of years I have spoken on this very subject eight times in the Parliament. Today is the ninth time I have spoken on builders warranty insurance. I am pleased to present my views and the views of some of my colleagues this morning and also to support the motion moved by the Honourable Gordon Rich-Phillips basically seeking greater accountability in the home builders warranty insurance sector by ensuring that all the facts associated with builders warranty insurance are published so that consumers, builders and the industry are better able to make a judgment on what is required with this form of insurance.

For the reasons I will outline in my contribution to the debate this morning, we think this is a necessary first step in having an accountability process for builders warranty insurance in Victoria. The first point I want to make about builders warranty insurance is that it is a little-understood concept amongst consumers. If you asked a person what they thought builders warranty insurance covers and should cover, I suggest that the first two responses would be that insurance needs to cover faulty workmanship and it needs to cover building defects. But in fact builders warranty insurance does not cover either of those matters except in the circumstance of a builder dying, disappearing or going bankrupt.

Most consumers are completely ignorant of exactly what is covered by builders warranty insurance. I note, for instance, a recommendation of the Victorian Competition and Efficiency Commission report, which was much talked about this morning. Recommendation 7.1 says:

> That Consumer Affairs Victoria and the Building Commission coordinate the production and timely placement of a document that describes builders warranty insurance and what it covers (similar to that provided for plumbers insurance) — for example, in the letter sent to consumers granted a building permit. The Building Commission should also negotiate with industry associations to include this information in standard building contracts.

Hear, hear! At the very least what we need is a community that is better informed as to exactly what builders warranty insurance is and what it covers.

The issue about the cost of builders warranty insurance has been canvassed to some extent in this debate but probably not fully. What does builders warranty insurance cost the average consumer? On the average house value of about $250 000 the premium that you could expect to pay for builders warranty insurance is about $2500, and as has been said by other speakers, that insurance is required to be taken out by the builder, but that cost is certainly passed back to the consumer in the form of a contract to undertake those domestic building works. It is a fairly significant cost factor in terms of the total cost of building a house — $2500 on an average $250 000 building price. What does that equate to in terms of total dollars? In Victoria about 81 000 domestic building permits are issued every year.

Mr Pullen expressed in dollar terms the latest increases in the value of building permits, but the most recent information I am relying on says that we have about 81 000 domestic building permits issued in Victoria each year. If you said that each of those building permits represents the average house price of $250 000 and attracts a premium of about $2500, the total sum collected in building warranty insurance in Victoria in any one year would come to $202 million, but I am not suggesting it is anywhere near that high. If you go back and multiply — I did this on the figures available to me late last year — the average value of the building permits and the total number of permits, the 81 000, you will find that the amount collected would probably be in the order of $120 million per year.

Exactly how much it is we cannot tell. That is what Mr Rich-Phillips's motion is all about. We cannot tell because the figures for the premiums charged, the number of premiums and a whole lot of associated issues are not publicly disclosed, but the very best estimate is that consumers in Victoria pay around about $120 million per year on builders warranty insurance premiums. Against how many claims therefor? Again that is an absolutely unknown figure, because we have a private insurance system operating builders warranty insurance in this state and it does not disclose the number of claims nor the value of claims. Again that is exactly what the motion calls for.

In an effort to find out something about the total number of claims made and the value of those claims I posed a question to the Minister for Finance on 13 September last year. In *Hansard* I am recorded as asking:

> … can the minister advise the house how many claims are made against the estimated $120 million paid by Victorian builders each year in the form of builders warranty insurance?

That is the sort of information Mr Rich-Phillips is seeking in this motion. The minister gave a lengthy answer to that. He certainly tried to respond to the question. I quote from page 754 of *Hansard* of Tuesday, 13 September 2005:

> We do not have the exact claim figures, but we do know from Vero Insurance, the market leader of the six or eight builders warranty insurers — I will give Mr Hall a more detailed figure later — that in the order of 30 or 40 claims a week are settled by the largest of the six insurers.

Even the minister is not quite sure of the number of claims, so I say that translates to the government being unaware of the number of claims and the value of those claims.

I want to contrast those figures given by the minister in his response to my question with some further statistics provided in the latest report on housing regulation in Victoria by the Victorian Competition and Efficiency Commission. The Minister for Finance in his answer last year suggested to me that there were 30 or 40 claims per week. I might add that in that answer he also went on to say:

> Again, off the top of my head, there may be one or two, or even three, builders a week in total that default, and claims from them and others are in the order of that figure.

I compare that to some of the statistics given in this last Victorian Competition and Efficiency Commission report. I refer to page 203 of that report, table 7.2, where it says:

> Builder insolvencies[a] and claims across Australia, 2000 to July 2005.

There is a superscript reference to a footnote below the table. The footnote states:

> While the aggregate numbers also include builders who died or disappeared, the proportion of the builders in these categories would average only 3–5 per cent in any one year.

So although this table is headed 'Building insolvencies' it includes the three aspects of builders warranty insurance — insolvency, builders who have died and builders who have disappeared. These are claims, I might add, across Australia — not across Victoria only, but across Australia. It says that in 2005 the number of insolvencies for builders across Australia was a total of 90, so there are less than two per week across Australia, and the associated claims were 660 across Australia. If you consider Victoria's percentage of that, even if it is as much as one-third, which has been suggested I think by Mr Pullen, you find that the number of claims in Victoria in a year is somewhere in the order of 200, not the 30 or 40 per week as suggested in the answer given by the minister.

So who is right? This is a document that has been published by the independent Victorian Competition and Efficiency Commission, but I am not sure if those figures are right. Therefore I think there is a need to support Mr Rich-Phillips's motion so we can get this out on the table and understand exactly what the extent of builders warranty insurance is — the number of claims and the value of those claims — and more importantly learn whether, as a consumer, you are getting value for your money and whether it is worthwhile taking out builders warranty insurance.

I think the statistics provided in the report are interesting and at least throw some light on the problem, but it certainly does not clarify the extent of the problem because I think there is a stark contrast between those figures, figures provided in the minister's answer in November of last year and in some of the figures that I heard Mr Pullen quote. I am not sure where Mr Pullen's figures came from, but he was speaking about the number of claims in Victoria in any one year amounting to more than a thousand claims. This was again suggested by Vero, one of the major builders warranty insurers. The figures given in the report, what has been said by Mr Pullen today and what was said in November of last year by the Minister for Finance just do not correspond, hence the need for greater transparency in this whole issue.

What is wrong with builders warranty insurance at the moment? It is an issue that has been canvassed fairly extensively in this Parliament and the broader community for some time, and it was a term of reference in respect of the report to which I just referred. It has been an issue of great concern. I also pay credit to Phil Dwyer from Builders Collective of Australia and others who have brought about some change to this whole concept of builders warranty insurance. It is because of the public pressure applied by Phil Dwyer and others that there has been at least some change. At least we have seen a couple of new entrants into the market.

I do not see the ready evidence that premiums have decreased. I am sure there are impediments facing builders in gaining builders warranty insurance. I spoke extensively about that 18 months ago in this chamber. I think some of those conditions have improved since then, but it is only because of the public pressure that has been applied that we are getting somewhere. Indeed the publication of these statistics called for in this motion would put pressure on the insurance companies to make sure they did the right thing — that is, by offering a product to consumers that is of value and has a competitive price structure.

What is wrong? The last resort of builders warranty insurance offers substandard consumer protection. The product is not what people think they are buying when they purchase builders warranty insurance. It needs to be a far broader insurance scheme. It is also a very expensive scheme. As Mr Pullen mentioned, the cost of running such schemes in Queensland and other states appears to be much less than what it costs to run the scheme offered in Victoria. The Queensland model in particular offers a better product for the dollars you pay. One of the problems about builders warranty insurance is the very fact that over the last three years insurers have refused to publish their claim details. I think if we are going to get a handle on this need for transparency, they need to publish those figures. Consequently we need the power to order those figures to be published. It seems to me that the Building Commission is an appropriate body to ensure that those figures are collected from each insurer, collated and published.

I am also of the view that Building Advice and Conciliation Victoria is not as effective as it should be in resolving consumer complaints. BACV is the zero-cost organisation to which a consumer can take a complaint about faulty workmanship or a defect in a building to try and have it resolved. However, essentially BACV is purely a mediation body and cannot make an order compelling a builder to comply. It can only mediate and hope that the goodwill of both parties brings about a resolution. If a builder refuses to rectify a problem and does not accept a proposition put forward by that organisation, a consumer would still have to take that builder to a court to seek some form of resolution.

What needs to be done? A whole range of steps need to be taken. The publication of the data, which Mr Rich-Phillips suggests in the motion, is a very good first step. Only following the publication of the data called for in the motion will we be able to determine outcomes such as how effective builders warranty insurance is in Victoria, the level of complaints, the cost of taking out the insurance and whether consumers in Victoria are getting value for money. As I have said, this is a very good first step, but there needs to be fundamental change beyond that.

The whole issue about whether builders warranty insurance should be made compulsory is one we need to have more discussion about. I notice that the Victorian Competition and Efficiency Commission (VCEC) canvassed the voluntary or compulsory nature of builders warranty insurance in its report. That was welcome, but we still have a long way to go. My personal view is that if it is going to be a compulsory scheme, it needs to be broader. It also needs to encompass some first-resort concepts for resolving building defects and faulty workmanship. I think there is merit — and I have said this before — in having a government-run scheme, such as the Queensland scheme, or an industry-run scheme, which is quite possible, instead of having a scheme run by private insurers.

In terms of whether this insurance should be mandatory or voluntary, I look to my experience of local country builders. As I have said before, I have never had a consumer complaint come in directly about a country builder — a locally based builder — having gone broke or not delivering. Usually those local builders live in a community and therefore are held responsible for their work. They know that if they do not rectify defects or do not do a good job, they will not get another job in that town. Nobody else will call upon them, because their reputation will soon get around. Builders in smaller communities in country Victoria are first class. They do not pose the same builders warranty insurance issues or problems of some of the bigger national building companies.

I also note that most building contracts have — and I am sure every building contract I have ever entered into has had — structured payments in them so that you do not pay until a certain component of the building work has been completed. A structured payment contract is also a built-in consumer protection measure. I understand that now it is law and building contracts are required to be structured as such. So already there are some built-in safeguards for consumers; you do not pay for components of your building works until the building has been completed to your satisfaction. All those issues need to be canvassed in a full debate about whether we have a voluntary or compulsory builders warranty insurance scheme. I have said quite openly and put on the record before that the Queensland model has much to offer us. We should look again at a government-run or industry scheme and measure the benefits of that against a scheme run by private insurance companies.

As I said, this is a welcome contribution towards to the broader builders warranty insurance debate. The publication of the statistics, as outlined in the motion, is an absolutely vital first step in improving the image and product of builders warranty insurance. It will simply make those involved in the scheme more open and accountable. I fail to understand why the government would not want to support that. I notice that in his comments Mr Pullen said that the government supported the sentiment of the motion but if it were to adopt the mandatory reporting of statistics it may delay the actual reporting of statistics by up to 18 months

while the government gets legislation in order. It seems an extraordinary period of time to require 18 months to draw up legislation that might mandate the publication of the statistical information. The government has not presented a strong argument to reject the motion. It certainly is commonsense, and The Nationals will support the motion.

Hon. C. A. STRONG (Higinbotham) — I also support the motion. The Honourable Peter Hall gave a very effective and clear summary of all the problems associated with builders warranty insurance. Speakers have also indicated what might be called a unanimous support for the concept of greater transparency in the insurance market. That is clearly spelt out in the Victorian Competition and Efficiency Commission report entitled *Housing Regulation in Victoria — Building Better Outcomes*, issued only in the middle of last month. The report has been sitting with the Treasurer for some time and no doubt would not have been issued without agreement with some of the key recommendations. As other speakers have said, there is agreement with some of the key recommendations. One of them is that there be such transparency in insurance. On page 205 the report states in part:

> The call for adequate data to assess the performance of builders warranty insurance is consistent, in principle, with views expressed more generally by the ACCC and the Insurance Council of Australia …

In other words, there is total agreement that there should be greater transparency. It goes on to say that policy-makers and regulators will derive significant benefits from competing insurers if that transparency is available. In recommendation 7.2 the commission recommends that such transparency be formulated:

> That the Victorian government finalise and implement guidelines for the provision of information and a code of conduct for builders warranty insurers, as a matter of urgency.

Therefore, as I have said and as the Honourable Peter Hall said, we are all in furious agreement about the need for transparency on this issue.

I make a point that Mr Hall made. Although there is always a risk in arguing by analogy, nevertheless I point out that if there were more transparency in the case of Jack the Ripper, that still would not solve the problem of Jack the Ripper. Warranty insurance is a failed product and having transparency in a failed product does not help overcome the problem of that failed product at all. This is a failed product. I can only agree with Mr Hall's assessment that it is a failed product. It should be done away with. On many occasions I have spoken in this house and outlined how the product has failed and said that it needs to be dispensed with.

I add my voice also to those of the other speakers, particularly Mr Hall and Mr Pullen, who have acknowledged the incredible work done by Mr Phil Dwyer in flagging this issue and keeping it alive. Phil is an absolutely outstanding advocate for change that would be of enormous benefit to consumers.

To outline some of the reasons why this is a failed product and needs to be done away with totally perhaps I can tell the house about a phone call that I had on the way in to Parliament this morning. I get such phone calls all the time. This morning I received one from a Mr Mark Balkin, a constituent of mine who is building a home at Lot 3, 21 Derring Lane, Cheltenham. He outlined the tragic story of his situation in which he is left with a home which is totally defective. He is unable to get any effective help or action against the builder.

I am sad to relate that the builder he is dealing with is Glenvill Homes, and most members will have heard me talk about its sorry record in the past. This man has a Glenvill problem. He assures me that the Building Commission has told him that all the brickwork in his house needs to be pulled down and redone. He is unable to get any action from Glenvill. He is taking Glenvill through the courts at very great expense. To understand the situation, members need only to look a very good exposé presented by *This Day Tonight* — on 15 April, I think — which ran through all the manifest problems that people have with shonky workmanship and builders who simply fail in their obligation to rectify that.

As Mr Hall said, the benefit of some sort of builders warranty insurance should be that it protects you from such shonky workmanship. This product does not do that. Again and again this product lets people down when they are faced with the need to have rectification of shonky workmanship. That is why it is very much a failed product: it pretends to be a consumer protection product but in fact it provides very little protection at all. Today members have heard that the amount of money collected in Victoria by this insurance is in the order of $120 million per annum and that there are likely to be a maximum of 30 claims against that insurance pool.

I do not blame the insurers for this. The insurers are doing what those in the private sector do so well — that is, going in there and making money out of the market. The insurers cannot be blamed for what they are doing. The government can be blamed for setting up a structure that allows them to do it. The solution is not to

blame the insurers. Although it would be nice to have greater transparency, what will we get from that greater transparency? Perhaps a little bit of pressure on the insurers to deal with premiums, but so what? It is a failed product. If we know what it costs, it is still a failed product and we will know the cost of the failed product.

The solution to building warranty is a new system, similar to that we used to have in Victoria. Clearly we know, because we still have it in place, that the old Housing Guarantee Fund Ltd, which has now been taken over by the Victorian Managed Insurance Authority, has run extremely well. It does dispute resolution and puts pressure on builders to repair their shonky workmanship. If a builder fails to do the right thing and repair the shonky workmanship, then the Housing Guarantee Fund goes in and repairs the work and takes action to get the money back from the builder. It helps the consumer with what the consumer wants — which is protection against some form of shonky building. The consumer wants protection to ensure that he or she ends up with a product that is satisfactory. The current product fails to give that, because the governments of both New South Wales and Victoria — in fright, after the collapse of HIH — negotiated this 10-point plan with the insurers.

Clearly the insurers had the whip hand at that time, given the HIH collapse, the World Trade Centre attack and all the other issues that were abroad then , and they said to the governments of Victoria and New South Wales, 'We will not cover this product anymore. We are in the business of managing risk. This is a risk we refuse to take on'. Therefore the governments of Victoria and New South Wales, in fright, negotiated this 10-point plan, which gave away consumer protection. The old scheme provided consumer protection with the concept of it being a first-resort system rather than a last-resort system.

The solution is to change the system and go back to a first-resort system with a proper dispute resolution mechanism. It is quite simple. There are models out there, and it would be at no cost to the government. In fact, I would venture to say that it would cost the industry significantly less because, let me tell you, the building commission rips out of builders some $24 million a year in levies to cover the management of the process, and the insurers take out another $120 million odd. There is a pool of money there in the order of $150 million a year. If you look at the performance of the old Housing Guarantee Fund and at the performance of the Queensland fund, you can see that a pool of that size would be more than adequate to cover the costs of providing a first-resort system to protect consumers.

I also indicate that the premiums would be significantly less. In his submission I think Mr Pullen highlighted that the premiums under the Queensland system are less than those people pay in Victoria. In its report VCEC also drew that conclusion — that the premiums under the Queensland system are less than those under the Victorian system. The huge difference between the Queensland system and our system is that the Queensland system is a first resort, so the premiums are less and much more is covered. It gives the consumers what they want — which is protection from faulty workmanship — for less money than is paid in our system. The government can have all the transparency in the world, and nobody will argue against that; we should have transparency. But that is not the solution. The solution is to totally overhaul the system. We need a first-resort system, and we need it now. Like Mr Hall, I support the thrust of the builders collective submissions, which are all about going back to a first-resort system, because a first-resort system will give consumers protection. It does not matter which way you cut it, the current system leaves consumers out there to dry.

I have given the example of Mr Mark Balkin, who rang me this morning. It has cost him thousands and thousands of dollars to try to prosecute through the Victorian Civil and Administrative Tribunal and through the courts. It is totally unfair that in such a case an individual has to try to prosecute through the courts. Such people are coming up against large companies, such as Glenvill, which have cash flows of millions of dollars and can stonewall such situations if they like. So there is a total lack of symmetry between the power of the consumer to achieve anything as distinct from that of the builder, particularly the large builder, if it seeks to be difficult.

We should be doing something to protect the consumer in that situation, and the current system does not. Therefore the current system is a failure and it needs to be abolished and replaced.

Mr SMITH (Chelsea) — I rise to oppose the motion. I will start by questioning the Honourable Gordon Rich-Phillips and asking: what is he on about? It seems to me that his motion, by and large, reflects exactly what the government is already doing. The fact is that it has already started working on the issues raised by Mr Gordon Rich-Phillips, and this is just another example of those opposite looking for some issue to demonstrate their relevance to the public. I should not sound ungrateful, because it gives me another

opportunity to demonstrate that the opposition is really irrelevant. If anyone wants to question that, they should look at what is known as the departure lounge, or the office of the Leader of the Opposition, Robert Doyle. If the opposition had any relevance at all, it has certainly gone out of the window in the last couple of weeks.

The Attorney-General in the other place, the Honourable Robert Hulls, is the minister responsible for building warranty insurance. He has already initiated action, and negotiations are currently going on with the federal government in this area. Like with a lot of things concerning the federal government, it is like a wet week it is so slow, unless of course there are some votes in it or some push polling to be done, or some — no, I will not go where I was about to go. The fact is that the federal government is quite slow and we are waiting for it to respond to what needs to be done here.

The Honourable Gordon Rich-Phillips is playing politics with this issue. Opposition members are simply trying to go out there and market themselves to new home builders or builders as doing something or to be seen to be doing something. As I said, by and large the issues they have raised are being dealt with already. I hark back to the HIH collapse, which brought about the massive changes in home insurance in this country. Following that collapse, the Bracks government introduced a whole range of reforms to encourage insurers and ensure that builders stayed in the industry.

The Honourable Chris Strong suggested that both the New South Wales and Victorian governments were frightened by the industry into negotiating an extraordinarily weak outcome and that, for want of another term, we were blackmailed into accepting an inferior system — but I did not hear Mr Strong's alternative.

Most people understand that when we had this insurance disaster — which by the way was also happening worldwide because of September 11 and a few other international disasters — it put enormous pressure on insurance companies. They wanted to recover their losses, and premiums were driven through the roof. The fact is that Australia is of no real significance in terms of its market share in the global economy. So when you think in those terms and understand the importance of providing a scheme for home builders and new home buyers, you realise we did not have the whip hand and it was really all about getting the best that could possibly be negotiated at the time — and I think we did that. The proof is in the fact that the vast majority of states have already followed suit which would seem to reflect confidence in what was negotiated by both the New South Wales and Victorian Labor governments, contrary to the comments made by Mr Strong.

In his contribution, which I agree was a quality submission, Mr Hall started by saying that to date we have taken a good first step, and he is right. As I said earlier we are currently waiting and negotiating with the federal government for it to deliver, and I am sure we will continue to improve on the current model. It would be foolish to suggest that we have a perfect system because we do not. A lot of ordinary citizens would be concerned about the current system but by and large it reflects what is needed in the industry at the moment, and the proposed changes as a result of the inquiries will deliver a better outcome.

The often-stated criticism is that the government builders warranty insurance arrangements heavily favour the insurers. I do not know about that. The last insurance resort system operating in Victoria has resulted in new insurers entering the market, and as a consequence there has been a reduction in premiums. That suggests the complete opposite of what is being put by members opposite. We are in an economic system that relies on competition, and if the competition drives costs down for people who build, then it seems to be working.

Figures from Vero Insurance, the largest of the six builders warranty insurers show that from 1 January 2000 to 30 June 2005 it processed an average of 35 new claims and 2 reported building insolvencies each week, or about 2400 claims each year. That does not include claims figures from other insurers. Since July 2002 Vero has settled approximately 5500 Victorian-based claims. Commonwealth and state data shows that our approach has had no impact on confidence in the building sector; in fact the reverse appears to be true. Within the Victorian industry approvals are at record highs, so given all this good news I am at a bit of a loss to understand the arguments being put by those opposite who suggest it is all doom and gloom.

The Insurance Council of Australia estimates that the total building warranty insurance market's annual premium income in Australia is around $100 million and Victoria accounts for about one-third of that. It is a long way short of claims by some of $350 to $400 million annually. Mr Pullen's contribution outlined in much more detail the government's position on this matter and why we oppose the motion, and I do not intend to rehash what he said. I think I have said enough to convince those opposite that they should reject their own motion based on the realities and, in my opinion, so should all members of the house. As I

said at the start I oppose the motion and look forward to its defeat in a few minutes.

Hon. W. A. LOVELL (North Eastern) — I rise to congratulate the Honourable Gordon Rich-Phillips for bringing forward this motion today on an issue that has caused much concern within the Victorian community. I not only congratulate him but also Phil Dwyer and the Builders Collective of Australia for the work they have done in highlighting this issue and how the Bracks government has failed consumers in the state of Victoria.

The current system of builders warranty insurance offers no consumer protection in this state, and the Bracks government has failed to listen to the concerns of the builders collective and the builders throughout Victoria who have raised this issue. There have been a number of meetings in my electorate attended by builders and their employees who raised concerns about builders warranty insurance. Certainly those meetings have been quite heated because not only have the builders outlined their concerns at not being able to get reasonable warranty insurance, but their employees have realised that if a builder closes down because of his lack of ability to get warranty in the state it will cost them jobs. I would have thought that being an old union man Mr Smith would have been more concerned about the jobs of builders in this state.

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

Hon. W. R. BAXTER (North Eastern) — I am afraid that Mr Smith did not convince me to join him in defeating Mr Rich-Phillips's motion. I listened to the very competent contribution from Mr Rich-Phillips, and I commend him for bringing to the house such a well-structured and well thought out contribution. I am pleased to support him. I listened to Mr Pullen and Mr Smith on behalf of the government. I give Mr Pullen his due for at least acknowledging that the sentiments of the motion have merit, which was rather more than Mr Smith could bring himself to do. In a moment I will comment on a couple of the points they both made from the notes they had obviously been provided by the government's minions.

It is fair to say that builders warranty insurance has been attended by misgivings and to some extent mischief in all the time that I have been a member of this Parliament. I well remember that one of my first dealings as a local member of Parliament concerned a house under construction in Malakoff Road in Beechworth many years ago in the days of the old Housing Guarantee Fund Ltd.

Without wishing to cast aspersions on the officers who were then running that outfit, their whole demeanour in any of the representations I had with them was that they were there to hang on to every dollar that had been paid in premiums and to resist every possible claim that was being put to them no matter how reasonable it might be.

I had a lot of arguments with the Housing Guarantee Fund and did not win many of them. I was not sorry to see that organisation replaced. I am not sure that what it was replaced with worked much better. On the other hand I am also the first to concede that insurance is one of the most misunderstood concepts within our society. There are so many people who seem unable to grasp the fact that when it comes to insurance you only get what you pay for and that if you do not fully insure you cannot expect when something happens that the insurance company will play fairy godmother and come along and bail you out if you were not sufficiently covered in the first place, either in quantum of dollars or in breadth of coverage.

I have to say that I hold no brief for insurance companies, but on the other hand in any of the claims that I have personally had to make over the years — and fortuitously there have not been many — I have only had the most satisfactory relations and negotiations with them. By and large a lot of the criticism insurance companies receive is somewhat unjustified because of misunderstandings, ignorance or expectations held by people who think that insurance companies have greater duties to the populace than the law actually provides.

It is also clear to me that the current system of building warranty insurance (BWI) is grossly misunderstood in the community. There is little understanding that we now have a system of last resort that is only going to come into play in the case of the death of the builder, insolvency or if the builder absconds and that any other defect, negotiation, trouble or complaint has to be dealt with directly with the builder or with the assistance of the structures that have been set up by the government to help in that process.

I have looked at the figures that have been reported in the recent inquiry by the Victorian Competition and Efficiency Commission. It is clear to me that that system is at least working — whether it is working entirely satisfactorily it might be still too early to tell, but the indication from commission is that at least the system is up and running and is resolving some of the disputes by way of its mediation and what it is able to offer.

The whole system would be improved, and the community's understanding would be improved, if the motion moved by Mr Rich-Phillips were adopted, because it would bring out into the open much of the information which is now not disclosed, which leads to the sorts of misgivings, allegations, misconceptions and conspiracy theories that are out there in the community at the moment. It is clearly believed by a lot of people that the insurers are collecting huge sums in premiums each year, and we have heard some dispute about what that is. Mr Smith and Mr Pullen both referred to the figure of $350 million being quoted in some quarters. They did not identify which quarters and said that it was nowhere near that. That may well be so. I am glad to have their assurance that it is not $350 million, but in the *Australian Financial Review* of 30 August last year the figure of $350 million per annum in BWI premiums was quoted. That is clearly where that figure has come from.

If it is only about half that, which is what was being claimed by the two government defenders this morning, then let us have the procedures proposed by Mr Rich-Phillips in place and then we will not have any arguments about what the premium collections are because we will know. We would similarly know how many claims are made and how many claims are successful, because that *Australian Financial Review* article of August last year spoke about the very few successful claims.

I find the figures quoted in that article to be unbelievable. I would be of the opinion that there are more claims than that and that a lot of those claims would be successful, but we are in the dark; we do not know. They will not disclose it. It cannot be said that this is commercial in confidence and the insurers will not reveal this information to the market, because this situation is different from the normal situation — it is a compulsory scheme.

You do not have to insure your house for fire, and you do a not have to insure your house against theft, both of which are optional and you can take your own decision. Maybe there is a reason for insurance companies not disclosing how many people do insure or what their premium collections are, but BWI is a compulsory scheme. The fact that it is compulsory seems to me of itself to dictate that we need some openness and transparency, and we need to know exactly how much money is involved, how many claims are being made and how many claims are successful. Why would the insurance companies not want to make that available anyway if they are interested in participating in a compulsory scheme? I am not clear as to why that needs to be held so closely to one's chest.

On 15 November last year I met with senior executives of the main insurer, Vero, when we discussed some of these issues. I commend those two gentlemen for the information they subsequently provided to me, because I found it useful indeed. We canvassed some of these issues at the time. I am not sure that I was at all convinced of the validity of any of the reasons they were able to advance at the time as to why we should not have this in the public arena, but on the other hand I acknowledge that that was not the main purpose of our conversation at that time. We were talking about other issues, so I should not perhaps attribute to them any great resistance because we did not canvass that matter particularly. However, we did have a good discussion about how the system was working, why we do not have more insurers coming into the market and some of the past history.

We know it has been attended with all sorts of misfortune. The HIH disaster clearly coloured the whole industry in terms of builders warranty insurance. It certainly left a bad taste in many people's mouths. No wonder there is suspicion out there in the community; no wonder there is concern. No wonder there is some sort of view held by a number of people who have had bad experiences that all is not right, and no wonder there are demands to get this sort of material out into the public arena. I agree with them.

I have, as I am sure other honourable members have, had very lengthy emails from Mr Andris Blums, who has been known to me for 25 years. I have had conversations with him recently on the telephone. Andris is a fairly persistent customer, to put it mildly. On the other hand you have to give him credit for the work he has done over many years from a consumer perspective in chasing this issue and making sure that transparency occurs wherever he can possibly manage it. The former government, to its credit, made Mr Blums a consumer representative at a time when the builders warranty insurance was under review. I am sure he made a sound contribution at that time. He is very concerned that insurance companies are collecting large sums, that they are making huge profits, and that they are not offering consumer protection. Let us get this sort of information out into the public arena.

This is a compulsory scheme. The government has an interest in this area. The Parliament has an interest in this. Get it out in the open and we will see whether Andris Blums is right or not. He may well be. I do not think he is, in terms of the overall quantum of figures he is talking about, but all he is doing is asking. He is saying, 'Give us the evidence. Show us that the consumer is getting a fair deal out of all this'. I am not sure that Andris Blums will ever be satisfied, but at

least if you get the information out into the public arena people can make their own judgments, and that is what Mr Rich-Phillips is asking for today.

He is saying that we have a scheme here in Victoria which is now a last-resort scheme. The people out there think it is a first-resort scheme in that they will have somewhere to go for recompense if they have shoddy building work done, but we know that is not true. We need therefore a better education system, and the commission has already indicated that in recommendation 7.1 of its report, which Mr Hall read out to the house earlier today.

So we have a bit of a hiatus out there. We have a community that is very concerned about builders warranty insurance — not only the builders but the consumers as well. But they do not know exactly what is going on. They cannot make their own judgments because there is not enough information in the public arena for them to make a sound judgment; so of course they are susceptible to allegations being made, 'newspaper articles that make extravagant claims, and even current affairs programs that from time to time feature unfortunate families who have received a raw deal. We tend to believe at face value what the program says because we are not able to get the other side of the story because of all this secrecy surrounding it.

I see no reason for the secrecy. Mr Pullen was not able to convince me why we should have the secrecy; Mr Smith certainly did not convince me why we should have the secrecy, so I say: Mr Rich-Phillips's motion has a lot of merit, and the house ought to adopt it.

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — I thank Mr Hall, Mr Strong, Ms Lovell and Mr Baxter for their comments in support of the motion. As Mr Baxter said, it is about lifting the veil of secrecy. The motion does not condemn the framework for builders warranty insurance that has been put in place; it does not condemn the actions that the government has taken in making those changes in 2002.

All it simply seeks to do is lift the veil of secrecy so that builders, consumers, the government, insurers, and the general public can have an informed debate and make informed decisions about what is happening in the builders warranty insurance market here in Victoria.

Mr Pullen in his contribution said that the government, in principle, agrees with this motion. That being the case, I call on members of the government to support this motion. Mr Pullen, inexplicably, said that mandating the collection of this information would for some reason delay its collection by 18 months because it would require legislation and so on.

I completely reject that assertion by Mr Pullen. The existing ministerial order that puts in place this framework for builders warranty insurance already imposes upon insurance contracts certain obligations on insurers, and it would be a simple matter for the Minister for Planning in the other place to amend that ministerial order to require the collection of this information that the motion seeks this morning.

Mr Pullen and Mr Smith, to a certain extent, referred to the Victorian Competition Efficiency Commission (VCEC) report and suggested that the government is already doing this. I point out that the recommendations in the VCEC report do not go to the nub of this motion, and that is disclosure of this information — getting this information into the public domain so that informed decisions can be made.

This is a simple motion — a straightforward motion. It will not impose burdens on the insurers; it will not impose significant burdens on the government. If, as Mr Pullen and Mr Smith assert, this is something the government supports and something it is already doing, there should be no difficulty for government members to support this motion.

This will go a long way towards having a far more informed debate. It will go a long way towards lifting a lot of the suspicion that exists within the builders warranty market between builders and insurers, and I urge members to support this motion this morning.

House divided on motion:

Ayes, 18

Atkinson, Mr	Forwood, Mr
Baxter, Mr	Hadden, Ms
Bishop, Mr	Hall, Mr
Bowden, Mr	Koch, Mr
Brideson, Mr	Lovell, Ms
Coote, Mrs	Rich-Phillips, Mr
Dalla-Riva, Mr	Stoney, Mr
Davis, Mr D. McL.	Strong, Mr (*Teller*)
Drum, Mr	Vogels, Mr (*Teller*)

Noes, 21

Argondizzo, Ms	Madden, Mr
Broad, Ms	Mikakos, Ms (*Teller*)
Buckingham, Mrs	Mitchell, Mr
Carbines, Ms	Pullen, Mr
Darveniza, Ms	Romanes, Ms
Eren, Mr	Scheffer, Mr (*Teller*)
Hilton, Mr	Smith, Mr
Hirsh, Ms	Somyurek, Mr
Jennings, Mr	Theophanous, Mr
Lenders, Mr	Thomson, Ms

McQuilten, Mr

Motion negatived.

DRUGS, POISONS AND CONTROLLED SUBSTANCES (AGED CARE SERVICES) BILL

Second reading

Debate resumed from 2 May; motion of Mr GAVIN JENNINGS (Minister for Aged Care).

Motion agreed to.

Read second time.

Third reading

Mr GAVIN JENNINGS (Minister for Aged Care) — By leave, I move:

That the bill be now read a third time.

In so doing I thank those who have contributed to the debate, those who have not contributed to the debate and those within our community who will be participating in the implementation of, hopefully, a very successful bill.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

Sitting suspended 12.48 p.m. to 2.03 p.m.

QUESTIONS WITHOUT NOTICE

Rail: Trawalla accident

Hon. B. N. ATKINSON (Koonung) — I direct my question without notice to the Minister for WorkCover and the TAC, Mr Lenders. I refer the minister to statements by Rail, Tram and Bus Union representative Bob Bassett on Monday, 1 May, following the train accident at Trawalla. Mr Bassett said there had been a number of near misses on the Ararat to Ballarat rail line. Given that railway employees were killed and seriously injured in the accident, will the minister order WorkCover to interview Mr Bassett, initiate an immediate investigation as to whether each near miss was fully investigated on previous occasions and why the near misses did not result in level crossing upgrades?

Mr LENDERS (Minister for WorkCover and the TAC) — I thank Mr Atkinson for his question. The heartfelt sympathy of the entire community goes out to the families of the people who died in the Ararat or any other accident, whether it be on the roads, in the workplace or otherwise. I propose to get, and the government is very keen to get, a detailed report of exactly what happened. As a minister I do not think it is of any assistance for me to speculate on what happened if I do not have the information before me. Certainly the Victorian WorkCover Authority and every government agency will fully cooperate with all the work that the responsible minister, the Minister for Transport in the other place, Peter Batchelor, is doing to get that information in place so that as a community we can make informed decisions on the safety issues and go forward.

In general terms it is fair to say it is an obligation of our community and every community to look at safety situations. In the WorkCover portfolio these things are often done over the 5 or 10-year period when you want to get things in place. There has been a lot of community discussion and concern over the industrial deaths that have occurred in Victoria in the last fortnight; it has been truly horrendous. The work done by the Victorian WorkCover Authority has been supported by the Occupational Health and Safety Act reforms, and changing community attitudes have been extraordinary in bringing down injuries and deaths. But the reminder we have had in the last fortnight of the number of industrial deaths in this state brings us back to the stark reality that this mission is never over. We need to remain completely vigilant and keep on the path of long-term trends that will bring down injuries and deaths, because they are totally unacceptable in a civilised society.

Supplementary question

Hon. B. N. ATKINSON (Koonung) — I join with the minister in extending sympathy to those people who lost loved ones in a series of accidents in April. Yesterday we had the seventh workplace death in 14 days, which, as the minister said, is a most unfortunate record for this month.

I thank the minister for his answer to the question. I ask the minister when he would expect a report from WorkSafe with regard to the occupational health and safety issues associated with this accident and the level crossing issues that might have contributed to the

accident. Will he give an undertaking to publicly release the report and table it in the Parliament?

Mr LENDERS (Minister for WorkCover and the TAC) — First and foremost any investigation in this area should correctly be initiated and come from the rail safety area. I have not commissioned a particular report myself. These are operational matters that the authority itself will deal with. If the authority has been asked by other agencies to do further work, it will do so.

From my perspective as a minister, we will work on systemic issues across the state to keep those issues going in respect of any occupational health and safety matter that needs to be dealt with. I will be responding to any requests from other government agencies for information so we can assist them in having an informed report so the government and the community can respond to this truly tragic situation in a measured way.

Minister for Information and Communication Technology: trade mission

Mr SOMYUREK (Eumemmerring) — I refer my question to the Minister for Information and Communication Technology, the Honourable Marsha Thomson. The minister has recently returned from a trade mission to Japan, the United States of America and Israel. Can the minister provide the house with examples of how the Bracks government is growing Victoria and the benefits of the trade mission to the companies that participated?

Hon. M. R. THOMSON (Minister for Information and Communication Technology) — I thank the honourable member for his question. People in this house will have heard me talk about the potential of the Victorian information and communications technology industry to play a significant global role. I am pleased to be able to say that the government is actively supporting our ICT companies to do precisely that. Last year, as I informed the house, 50 people accompanied me to Aichi Prefecture in Japan. They were from Victoria's computer games industry, our e-learning cluster, the radio frequency identification cluster, intelligent transport systems and our business software applications sectors.

I am pleased to be able to say that from that mission last year projected sales over the next two years is almost $16.7 million. As a result of that trip we took companies back to Japan this year to gain from last year's trade mission. One of our computer games companies, Tantalus Interactive, announced a partnership with the publisher Kemco to produce a new video game for the Nintendo dual screen platform, which is no doubt a game that members opposite will undertake to play. It is noteworthy that our games industry has had unparalleled access to Nintendo executives within Japan and have reaped the benefits.

Other sectors that were represented on the trade mission are also enthusiastic about the opportunities this mission presented. The networking function held at the Australian embassy in Tokyo was in fact oversubscribed; we had to squeeze a few more in than the embassy would have liked. The receptiveness by the Japanese companies to what we had to offer as an ICT industry was most welcome.

In Israel around 100 people attended a networking function with representatives from the Israeli high-tech industry. This follows from the Premier's and Treasurer's visits and the establishment of the VISTECH fund to facilitate collaboration between high-tech industries. Israel offers a great opportunity for our companies to work collaboratively for an intended global market. I am certain that some of the potential that exists there will in fact be realised as a result of our recent trade mission to Israel.

In the US we finalised a deal that reflects many of the objectives of the Bracks government's ICT industry plan. The Victorian government brokered a deal which sees two of the world's largest ICT companies in an alliance with a local company, Cebridge, which is based just down the road in Burnley. Cebridge has developed a world first. It is the world's first automated disaster recovery data backup system. It will partner with Hewlett-Packard and Intel to deliver a pilot for this technology in Bangladesh, the Philippines, Singapore and here in Australia. These are world-class performances by our companies producing world-class results.

WorkCover: claims records

Hon. B. N. ATKINSON (Koonung) — I wish to address a question without notice to the Minister for WorkCover and the TAC, Mr Lenders. Can the minister advise the house if he was consulted on and agreed to the policy decision of the Victorian WorkCover Authority to place a six-year cap on employer access to claims records unless they can establish a case for access to earlier records through a review process?

Mr LENDERS (Minister for WorkCover and the TAC) — I am delighted that Mr Atkinson is asking questions about WorkCover. It is a long time and he has had one question in about 200 days.

Hon. Philip Davis — You will give some good answers then.

Mr LENDERS — The Leader of the Opposition says that we might get some good answers. I am confident that we treat question time with a seriousness that the Kennett government never did. I am very confident we will give some very good answers.

Mr Atkinson asked about claims records and access to them. I responded to his question on this particular issue which I took on notice some weeks ago when he raised it in questions without notice.

Hon. B. N. Atkinson — I have not got a response yet, by the way.

Mr LENDERS — Mr Atkinson says he has not got the response. It is in the mail. I signed it off over the weekend, so it is probably waiting in his electorate office now.

The material issues really are that any access to claims information is a delicate mix. On the one hand there is the obvious need for an employer who provides information to the Victorian WorkCover Authority or one of its agents to see the information that goes in — given that the information goes to the employer in the first instance. Beyond that, when the agent or authority processes it there are a couple of next steps. One is quite clearly the right of the employer who provides the information to get access. But there are also privacy issues about whose records they are and what their confidentiality is.

Mr Atkinson, and any employer who feels that this process does not give sufficient information or coverage, can take some comfort from the fact that, firstly there is an internal review process within the Victorian WorkCover Authority, which was set up by the Bracks government. Secondly, there is also the external review processes of the Victorian Civil and Administrative Tribunal or the courts, which are always options if people think that a case has not been adequately dealt with. There are tens of thousands of WorkCover cases a year. There are obviously cases where employers, employees and the unions representing them have issues.

The insurance scheme is but a part of a broader regime. If we can bring down injuries in the first place by good occupational health and safety, we do not need to rely on an insurance system because the workers will not be injured and we will not have those issues. In this sense we want to work very closely with other jurisdictions, including the commonwealth, to get a good regime in place. We have put in place an occupational health and safety inspectorate to reduce the claims that Mr Atkinson is referring to. One of the provisions in our legislation last year was to have authorised representatives of registered employee organisations (ARREOs) in place, where you can have occupational health and safety officials of unions going into workplaces on safety issues. The commonwealth is now, under its WorkChoices legislation, stopping those ARREOs going into workplaces. It has no regard to the fact that these ARREOs are union officials committed to safety in workplaces.

Hon. Bill Forwood — So say you!

Mr LENDERS — They are committed. I take up Mr Forwood's interjection. It is very fashionable for those opposite to belittle union officials doing occupational health and safety work.

Hon. D. McL. Davis interjected.

Mr LENDERS — Mr David Davis mentioned the word 'thugs'. It came out of his lips as he referred to this, whereas union officials are overwhelmingly people who go out and about doing their job to look after injured workers. An injured worker is a very vulnerable person, and some union representation assisting them is something that I am pleased can be put in place. I think those opposite do not have regard to the vulnerability of injured workers. They have people actually assisting them in times of need. I take my hat off to union officials who go out there and look after the occupational health and safety of employees, as I do to employers who look after their employees.

I think I have answered Mr Atkinson's question. It is a holistic picture, and I think it is good.

Supplementary question

Hon. B. N. ATKINSON (Koonung) — I thank the minister for his answer, and I point out that section 27 of the Limitation of Actions Act 1958 provides that the period of limitation shall not begin to run against a plaintiff if the action is for relief for the consequences of a mistake until the plaintiff has discovered the mistake or could with reasonable diligence have discovered it. I therefore ask the minister to advise me on what legislative provision or legal ground the Victorian WorkCover Authority has instituted the six-year cap policy.

Mr LENDERS (Minister for WorkCover and the TAC) — I have in general terms responded to Mr Atkinson's question, and I responded to his previous one that I took on notice, but given the technical nature of that one — as my colleague

Ms Mikakos says, he is seeking legal advice across the chamber now — I will take that on notice.

Minister for Information and Communication Technology: trade mission

Hon. H. E. BUCKINGHAM (Koonung) — I refer my question to the Minister for Information and Communication Technology. The minister has informed the house how business has benefited from her recent trade mission to Japan, the United States and Israel. Can she provide the house with details of any inward investment that she secured on this trip that will help grow the Victorian information and communications technology industry and indeed grow all of Victoria?

Hon. M. R. THOMSON (Minister for Information and Communication Technology) — As members know, not only are we responsible for growing the industry here in Victoria and encouraging it to look to exports and opportunities globally, we are also responsible for information and communications technology (ICT) investment attraction.

I am pleased to be able to say that Victoria is a great place to come and invest, and certainly ICT companies believe that too. The reason they want to come to Victoria is because we have a skilled work force, because we provide world-class infrastructure, because of our strong economy, because of our secure environment and also because we have a progressive and innovative government here in Victoria. All that makes Victoria an attractive location for companies to establish global operations or centres of research and development or to locate their Asia-Pacific headquarters.

The Bracks government is committed to building a globally focused ICT industry. In order to do that we encourage not only our own industry here at home but those overseas who are looking for a good base. On my most recent trade mission I was able to finalise two such investments into Victoria that will bring up to 100 jobs for the Victorian ICT industry. In Tel Aviv we finalised arrangements with leading Israeli IT services and solutions provider Ness Technologies Inc. to establish its Australia and New Zealand headquarters here in Melbourne, which will create up to 50 new jobs. Ness Technologies has offices in 15 countries across North America, Europe and the Asia-Pacific, and it will certainly add to the value of the industry here in Victoria.

Whilst in New York we secured an agreement with Computer Associates, one of the world's largest e-security companies, to grow its work force with up to 50 new jobs through a scholarship program with Victorian university students, providing jobs for young Victorians. Computer Associates already employs 150 Victorians in R and D centres and laboratories in Mooroolbark and Richmond. They undertake groundbreaking work in the field of e-security. Computer Associates has established its largest anti-virus research centre as well as its corporate centre of excellence for security here in Melbourne, addressing key security areas of identity and access management and also threat management.

The investment Computer Associates is making in Victoria is a vote of confidence in Victoria, in the talents of our young people and in the Victorian economy. It will also add to our global reputation — one that we think is important, particularly in the area of e-security. I reiterate that we are such an attractive proposition because of the skill sets of our young people, because we offer a secure environment and because we provide an innovative government that is growing Victoria's economy not just for now but for the long haul. These are world-class companies with world-class performances investing in Victoria.

Gas: Bairnsdale supply

Hon. P. R. HALL (Gippsland) — My question without notice is directed to the Minister for Energy Industries, the Honourable Theo Theophanous. It concerns natural gas reticulation in Bairnsdale — a matter which the minister has spoken about a number of times in this chamber. I ask the minister: why is it that Bairnsdale Secondary College is required to contribute $100 000 of its own locally raised school funds towards the cost of natural gas connection?

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — First of all, let me again say how proud this government is of the $70 million gas extension program which is designed to deliver natural gas to regional Victoria.

Honourable members interjecting.

The PRESIDENT — Order!

Hon. T. C. THEOPHANOUS — I am sure that Mr Hall wants to hear the answer.

Honourable members interjecting.

The PRESIDENT — Order! The minister to continue, without interruption.

Hon. T. C. THEOPHANOUS — Thank you, President. I am attempting to answer Mr Hall's question. Obviously we are very proud that 34 towns are getting natural gas as a result of this government's efforts. We are obviously very proud of the provision of gas to Bairnsdale.

Hon. Philip Davis interjected.

Hon. T. C. THEOPHANOUS — If the Leader of the Opposition wants to start quoting places in regional Victoria where he thinks gas should have gone to, I am happy to start quoting the names of the 34 towns that are getting natural gas. I do not think that kind of childish behaviour helps anyone in this house. This is a serious question that has been asked by the member. I am attempting to put my answer in the context of the program that is delivering natural gas extensions throughout Victoria. I know the member supports the gas extension programs going into these regional towns, including Bairnsdale. It is a very important regional centre, and it is very important that that centre is provided with natural gas.

I am not familiar with the exact detail of the instance the member has raised with me in relation to this particular secondary college, which I take it is a government secondary — —

Hon. P. R. Hall — It is a government secondary college.

Hon. T. C. THEOPHANOUS — It is a government secondary college. I would have thought, if it is a government secondary college, that any cost of the extension of natural gas would fall on the government as well. I am not sure what point the member is making in relation to this. The fact is that the gas is now becoming available. Therefore it will be a lot cheaper to heat the school than it was in the past as a result of accessing natural gas. The ongoing running of the school will be far cheaper than it was in the past.

The actual connections to particular businesses, particular organisations or private homes is a matter which varies considerably. I am happy to have a look at the particular issue the member has raised with me to see whether there is any disadvantage accruing to this secondary school. I will have a look at it and respond to the member.

Supplementary question

Hon. P. R. HALL (Gippsland) — I have a supplementary question. I thank the minister for his preparedness to look into this issue, which I can assure him is a fact. By way of a supplementary question and to clarify, therefore, the general government policy in respect of these matters, I ask: is it government policy to connect all government buildings, including schools and hospitals, to natural gas in towns where reticulation is occurring, and who bears that cost?

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — Again this is a question which goes to some detail and also goes across other portfolios. I am happy to return to the member with a response on this question as well, but I should say this: as a general rule the government is very keen to connect not only private businesses and private homes where gas is being provided through the natural gas extension program but also any facilities of which it is the owner. I would expect that that would be our general view, but it may vary in particular or specific circumstances. I will get back to the member with a more detailed answer.

Commonwealth Games: demountable housing units

Ms ARGONDIZZO (Templestowe) — My question is to the Minister for Housing, Ms Broad. Can the minister inform members of the house about recent actions by the Bracks government to ensure that there is a social legacy for families right around Victoria from the Melbourne 2006 Commonwealth Games and how these actions are helping to build all of Victoria?

Ms BROAD (Minister for Housing) — I thank the member for her question and her interest in the benefits that are flowing to the whole of the state from Melbourne's very successful hosting of the 2006 Commonwealth Games. These benefits are certainly helping to build all of Victoria.

Recently I joined the Deputy Premier at the former athletes village to announce plans for some of the demountable units that temporarily housed athletes during the Commonwealth Games. For anyone who has any doubts about these demountable units, I can certainly assure them that they are of a terrific standard — they are very impressive indeed. I can understand that many people are looking forward to being able to use them for a whole range of purposes.

In this case the Bracks government has made available 20 of the demountable units for allocation by the Office of Housing. I am pleased to say that we are moving these units to locations where there is a high demand for social housing, with a particular focus on rural and regional Victoria. Six of the units will be reconfigured into four-bedroom homes to meet the needs of low-income larger families — three will be

recommissioned in Robinvale, two in Horsham and another in Colac.

I am also pleased to advise members that Community Housing Ltd, one of Victoria's five not-for-profit housing associations and a very experienced community housing manager, is contributing to the cost of re-establishing a further six units that will be used to house indigenous Victorians in Gippsland. Community Housing Ltd will work closely with the Gippsland and East Gippsland Aboriginal Co-operative and the Lake Tyers Aboriginal Trust communities to provide accommodation for both single people and families.

The three properties to be utilised at Lake Tyers will also accommodate larger families. The provision of these homes will complement other local community developments including a recently built community health centre, the increased availability of TAFE courses to the community and a local housing upgrade program that is also creating local employment opportunities which are much needed.

A further eight demountable units have been allocated for use as part of the Bracks government's very successful neighbourhood renewal initiative, with Shepparton, Moe, Braybrook, Norlane and Delacombe all set to benefit from these units. Importantly this will mean that houses that are currently being used for other purposes will be able to be freed up and used again as homes for families. The demountables in these neighbourhood renewal areas will be developed as community facilities in consultation with local councils, community groups and other government agencies that are involved. There will be full consultation about the development of those community facilities.

The relocation of these demountable units means that the wider Victorian community is benefiting from a lasting legacy of the Commonwealth Games as well as helping to build all of Victoria — which is something that the Bracks government, and particularly the Minister for Commonwealth Games, the Honourable Justin Madden, has been very determined to ensure and the government is now delivering.

Commonwealth Games: international visitors

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — My question is to the Minister for Commonwealth Games. Does the minister stand by his claim that the Commonwealth Games attracted 40 000 international visitors?

Hon. J. M. MADDEN (Minister for Commonwealth Games) — There is no doubt that there was an enormous number of people here for the Commonwealth Games. I welcome the member's questions in relation to any attribute of the Commonwealth Games because one of the great things about the Commonwealth Games from everybody's point is that it exceeded everyone's expectations. Anybody who was associated with the games enjoyed themselves wholeheartedly. It was an absolutely spectacular event. Although we do have a few naysayers on the other side of the chamber, I am sure that any post-games analysis will show that overall it was a spectacular success.

I am confident that the targets that we expected to achieve in relation to international or domestic visits in relation to the games will be achieved or will be close to being achieved. At present I do not have reports on those figures but I expect those figures to be confirmed with our office in the near future by Tourism Victoria, which will confirm those figures absolutely before too long.

Can I say that an absolutely enormous amount of money was spent within the city. Something in the order of $270 million was spent just immediately in the heart or in or around the city at many, many venues for a whole array of reasons. That was injected into the economy and was just one of the immediate benefits of the games. More positively, whether it was the visits, the money spent or the showcasing of Victoria to the rest of the world, the benefits — as mentioned by my ministerial colleague — continue to flow on and will continue to be exemplified in years to come through the economic benefits that will make Victoria an even better place to live.

Supplementary question

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — I note that the minister said that he expects the target of 40 000 to have been achieved and I note that official passenger data released last week by Melbourne Airport shows that for the March quarter 2006 international passenger traffic was in fact 14 000 lower than for 2005. How can Victoria have attracted an extra 40 000 international visitors for the games when, compared to last year, 14 000 fewer international visitors arrived?

Hon. J. M. MADDEN (Minister for Commonwealth Games) — I welcome the member's question and any figures he might want to throw on the table, but I am confident that we will achieve the targets that we talked about. The indicators from Tourism Victoria are that they are very confident that we will achieve those targets.

It is also worth appreciating that many of the visitors to the country may well have come through the domestic terminal, appreciating that we encourage people to stay in Australia and Victoria and to come through different forms and that one of the key supporters of the games was the federal government in relation to attracting visitors to Australia. So we would expect that many of those visitors came on domestic flights. Appreciating, too, that Qantas was one of the key partners that delivered the packages, many of the guests who came through the airport may have come on international trips but through domestic flights coming into Victoria.

Wind energy: code of practice

Hon. J. H. EREN (Geelong) — My question is to the Minister for Energy Industries. Can the minister advise the house of the response of the Bracks government to the announcement today by the federal minister for the environment in which he proposes new guidelines for the development of wind farms in Australia?

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — I thank the member for his question. Following his desperate attempt to justify his decision on the Bald Hills wind farm — a decision which has been condemned by just about every commentator as being nothing more than a political decision and political sop — the federal minister is not content and has now come up with a proposal to effectively stop all wind farm development throughout Victoria. This minister, Senator Campbell, is increasingly becoming the minister against the environment — and in being against the environment in this instance he is also against regional jobs and investment.

Today he released a discussion paper on a national code for wind farms. The problem is that nearly every public statement from just about every other state and territory minister is that they neither need it nor want it. That did not stop Senator Campbell from going out and falsely claiming that in relation to this proposal he had support from a range of states. He does not have that support. He made a big deal about Frank Sartor, the New South Wales Minister for Planning, but in fact Frank Sartor was quoted as saying yesterday that he has:

> … strong concerns about any move to grant veto powers to the commonwealth minister.

Well he should have concerns about granting that veto power, because that is exactly what Senator Campbell is attempting to achieve by this proposal for a national code. He does not want a code; he wants veto power. He wants the veto power for one reason only: he wants to be able to oppose wind farms in circumstances where any of his mates in the Liberal Party ask that a wind farm not go ahead. The way he would propose to do that would be to simply get a rent a crowd. He would tell his mate, 'Go and get a rent a crowd to object to the wind farm and I'll knock it off, using my new code'.

He failed miserably with his find-a-bird strategy — he could not find a bird anywhere — so now he has come to a new strategy, a rent-a-crowd strategy, to try to stop these wind farms and this renewable energy going ahead. He is a discredited minister and the state opposition should not support his continuing meddling in Victoria's affairs in relation to renewable energy.

This has a serious side because despite the fact of the Victorian government's efforts to cut greenhouse gas emissions by encouraging wind farms and renewable energy, Senator Campbell and the Howard government continue to take actions to kill investment in regional Victoria. They are not about killing birds; they are about killing investment. They do not care about the environment: they are not prepared to sign on to Kyoto; they are not prepared to sign on to an emissions trading scheme; and they have nobbled the renewable energy scheme. Now they want to introduce a code to put the final nail in the coffin of renewable energy in this country.

Commonwealth Games: event companies

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — My question is again to the Minister for Commonwealth Games. Victorian-based event companies reported one of the worst months for business in over a decade during March and the Commonwealth Games. Can the minister provide the house with any evidence that the games produced any benefit at all for Victorian-based event companies?

Hon. J. M. MADDEN (Minister for Commonwealth Games) — I welcome the member's question. I welcome any questions he has on the Commonwealth Games because it is interesting that post the Commonwealth Games very few questions in relation to it have been raised by the opposition. I tend to think that that is a reasonable endorsement of how successful the games were. It is nice to know that the opposition can ask those questions after the games as well as before the games, because it shows that they have an interest in the outcomes of the games, even though they may not have had an interest in the outcomes of the games before the games.

In relation to the people employed in the games, whether it is the economic benefits, the jobs created, showcasing the state to the rest of the world, the

benefits in regional Victoria — in all those regional areas that did a tremendous job in hosting various elements of the games: Bendigo, Ballarat, Geelong, and down in the Latrobe Valley — the huge effort, or the volunteers who felt enormous pride and a sense of achievement in committing themselves to the games, at every level and indicator the games has been an enormous success.

Of course there will be one or two naysayers, just as the opposition from time to time like to relate that, but it was the biggest event in Victoria's history — across basically two weeks. So of course if you are involved in the event it is going to be an enormous benefit, but if you are not involved in the event then it is going to be a bit quiet.

Can I just say that whether it is for those two weeks or whether it is for the next two years or whether it is for the next 20 years, the benefits to this state and this city will continue to flow on. I suspect that the events companies, which were either involved or not involved, will share in those accrued benefits going into the future, because we have reinforced our reputation for events right around the world. What has already occurred, one of the big international events — —

Hon. B. N. Atkinson — It doesn't help to pay their land tax!

Hon. J. M. MADDEN — Mr Atkinson might like to listen and pay attention to this, because it is very important to his shadow portfolio responsibilities. Sport Accord, an international event which is held every year around the world, is an event where all the sports and events come together to showcase what is on the agenda and what is likely to take place. One of the benefits of the event is that international sporting associations come together, and a lot of their networking and potential events lobbying occurs there. The talk of the event this year, I understand, was the Commonwealth Games and the success of the Commonwealth Games, not only with the spectacular array of events that were delivered but in particular the success of the opening ceremony. In many ways the opening ceremony being spread right across the city showcased to the rest of the world a new way to do events, a new way to do opening ceremonies.

We have already educated the rest of the world on how to do events better. What I suspect is that we will see even more events occur in this state through this government over the next few years, and every one of the companies that is involved in events — whether they be small, boutique companies, hospitality companies, equipment or marquee companies, any of those — will no doubt share in the accrued benefits for years to come because of the success of the Commonwealth Games, making Victoria not only a better place to work and live but an even better place to raise a family.

Supplementary question

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — The minister in his answer spoke about the events companies that were engaged and were not engaged with the games and where employment was created and where it was not created and the activities in the regions. So I ask: will the minister now provide the house with full details of events and promotion contracts the government entered into, including where the events companies were located, how much they were paid and for what?

Mr Viney — On a point of order, President, that is an entirely different question from the original question. The original question asked the minister about the nature of events companies, and the member is now asking the minister to provide details on a whole range of contracts — under the guise of using the same word, 'events' — that clearly have no relationship to the original question.

Hon. G. K. Rich-Phillips — On the point of order, President, the supplementary question related to the minister's answer. He spoke about companies that were involved and were not involved and he spoke about the different regions. The supplementary question, although it seeks detail, merely relates to the matters that the minister himself raised in his answer, and the minister is of course at liberty to take it on notice if he needs more time to provide the detail.

Mr Gavin Jennings — On the point of order, President, I think you would be pretty clear, as Mr Rich-Phillips has given you guidance, on how the issue should be dealt with. At the very conclusion of his point of order he clearly indicated that he understands that this is a question that would more appropriately be asked as a question on notice as distinct from a supplementary question.

The PRESIDENT — Order! With respect to the point of order raised by Mr Viney about whether the supplementary question was appropriate, in previous rulings I have given I have pointed out that the supplementary question should be asked only to elucidate or clarify the answer given to the original question. It should relate to the answer and should be asked only if the member asking the question feels it is necessary to seek further information on the matter or

to ask the minister for further explanation of the answer.

The supplementary question the member asked referred to quite extensive detailed information and is in order. Yes, it was asking for detail, but it is up to the minister how he will respond to it. The supplementary question is in order, and the minister can respond accordingly.

Hon. J. M. MADDEN (Minister for Commonwealth Games) — Thank you, President, and again I welcome the member's question. One of the things that we have always been committed to is absolute transparency in relation to reporting on the Commonwealth Games, and we will maintain that position because we will offer, as we always have, a whole-of-games report.

A special purpose report on the games has been provided with the Department for Victorian Communities annual report. We will have that once again. We will have a whole-of-games report, and if there is any specific information that the opposition member does not get in that special purpose report or the whole-of-games report, in the wrap-up, we will be happy to provide it to him on request or have him briefed on that issue. When the time comes, when all the information is made public, we will be happy to continue to brief him because we know he has been so supportive of the games both in the lead-up to as well as post the event.

Aged care: Mornington centre

Hon. J. G. HILTON (Western Port) — My question is to the Minister for Aged Care, Mr Jennings. Can the minister advise on the Bracks government's efforts to build all Victoria, and in particular on the progress of work to develop a new state government aged care centre in Mornington?

Mr GAVIN JENNINGS (Minister for Aged Care) — I thank Mr Hilton for his question and his concern about the wellbeing of older members of our community right across Victoria, let alone those, very importantly, on the Mornington Peninsula.

Last week in the company of my colleague the Minister for Health I announced a policy that will lead to a greater degree of public accountability and participation in communities right across Victoria in terms of health care planning, particularly health care planning through the prism of community-based services, subacute services and rehabilitative services — services that are designed to make people healthy and independent and militate against the need for what is very intensive acute hospital treatment. In years to come hopefully we will see a service configuration through health care that will be based on the preventive end, the early intervention end and the rehabilitation end rather than on skewing resources and allocations to the acute hospital sector.

The week before the Minister for Health and I embarked upon that policy direction I joined Mr Hilton, other local members from the other place and the good people from the Peninsula Health Service at a sod-turning event to launch a new $20 million facility in Mornington that will be the epicentre of an integrated subacute community rehabilitation and community health service in the years to come.

Hon. Philip Davis interjected.

Mr GAVIN JENNINGS — I think Mr Davis will be satisfied by the fact that with the first instalment, this $20 million instalment, the facility will indeed be at the centre of the service configuration — so satisfying my use of the word 'epicentre' — and be a quality service that will provide for the needs of people from the Mornington Peninsula, not exclusively seniors but people who require community rehabilitation services, and provide geriatric and evaluation beds and the opportunity for people to be rehabilitated in this state-of-the-art facility. It will form a central hub of further residential aged care services, which will include a mental health residential facility, and it will involve integration with the community health centre for the Mornington Peninsula.

The government, through its commitment to service configuration on the Mornington Peninsula, is very pleased to be associated with the great work of Peninsula Health in establishing a service configuration that reinforces health independence. I am very confident, because of the times I have travelled to Peninsula Health and discussed with the staff their approach to integrated and coordinated community-based care and their commitment to health independence, that it will be a shining example right throughout Victoria of this great approach to community-based care.

We will provide $20 million to the 60-bed facility for geriatric and evaluation management beds, which will be the first instalment for this major redevelopment. This $20 million allocation is exclusive of the $258 million — which I often talk to the house about — we have allocated to the redevelopment of 39 residential aged-care facilities throughout Victoria. On most occasions when I talk about the commitment of the Bracks government to residential aged care I talk in the context of regional and rural areas of Victoria and

I talk about residential aged-care facilities as distinct from community-based centres such as this. I am pleased to add to the support of our community through this facility.

QUESTIONS ON NOTICE

Answers

Mr LENDERS (Minister for Finance) — I have answers to the following questions on notice: 5670, 6157, 6383, 6476, 6621, 6653, 7033, 7121, 7126, 7262, 7883, 7889, 7892, 7900, 7925.

Hon. BILL FORWOOD (Templestowe) — President, I wish to raise the issue of question 5313 and ask the minister if he has had any success in extracting an answer from the department.

Mr GAVIN JENNINGS (Minister for Aged Care) — In terms of my ongoing success, I have had success in conveying to Mr Forwood that I am determined to achieve an outcome for this. I have been successful in achieving its resurrection on the notice paper, and in due course I will be successful in extracting an answer from the Minister for Health. I am confident that I will be able to do that soon.

ABORIGINAL HERITAGE BILL

Second reading

Mr GAVIN JENNINGS (Minister for Aboriginal Affairs) — I move:

> That, pursuant to sessional order 34, the second-reading speech be incorporated into *Hansard.*

It is with some degree of pleasure that I introduce to the house the second-reading speech covering the Aboriginal Heritage Bill 2006. However, I need to draw to the attention of the house the fact that in the Legislative Assembly the government introduced house amendments which were adopted. They relate to three matters.

There was a provision in clause 93 of the bill which enabled the powers of the minister or an inspector to revoke a stop order issued under what we anticipate will be the act. The amendment clarifies that the minister may revoke any stop order and an inspector will be able to revoke a stop order that they had issued themselves. That is the first amendment.

Previously in the bill there had been a power to extend a stop order after a 30-day period, and that power could be exercised by both the minister and an inspector. The government amendment removes that power from an inspector so that only a minister can increase the length of a stop order by an additional 14 days. That is the second amendment.

Further, the bill required the Heritage Council to approve candidates prior to the minister appointing them as a inspectors, and while the minister will maintain the power to appoint an inspector, the effect of the amendment will be to dilute the requirement for the minister to have the approval of the council before that appointment is made. In fact the obligation on the minister will be merely to consult with the Heritage Council prior to making the appointment of an inspector. That is covered by the third amendment. So that is the scope of the three amendments. Otherwise the bill is as presented to the Legislative Assembly.

Motion agreed to.

Mr GAVIN JENNINGS (Minister for Aboriginal Affairs) — I move:

> That the bill be now read a second time.

Incorporated speech as follows:

> In doing so I would like to acknowledge the people of the Kulin nation — the traditional owners and custodians of the land on which the Parliament stands. The government pays our respects to their elders — past and present and takes this opportunity to acknowledge the many Aboriginal nations who have lived on this land for thousands of generations prior to and since the establishment of the state of Victoria.
>
> When the Bracks government first came to office we committed to achieving genuine partnership with indigenous people. We did so in the belief that Victoria will never be a truly equal and fair society until we complete the unfinished business of reconciliation. Our government outlined a vision for reconciliation in Victoria, which is to create a society that is proud of its Aboriginal heritage, addresses the dispossession and disadvantage experienced by indigenous people, heals the hurt of past injustices, and commits to building a positive future.
>
> This bill is an important step towards reconciliation in Victoria. Aboriginal heritage is important for all Victorians. It is crucial for Aboriginal people to have laws which recognise their relationship to land and the past and provide legislative mechanisms to protect and preserve their heritage for future generations. Aboriginal heritage is also an integral part of Victoria's history. Victorians can be rightly proud of our natural heritage, our Aboriginal heritage and many aspects of our colonial and post-Federation heritage. Our government recognises the importance of maintaining effective legislation to protect, preserve and manage our heritage for the benefit of all Victorians.
>
> Victorian legislation protecting our Aboriginal heritage has not been updated since 1972, when the Archaeological and Aboriginal Relics Preservation Act was passed. The major

legislation protecting Aboriginal heritage that applies in Victoria is the relevant part of the commonwealth Aboriginal and Torres Strait Islander Heritage Protection Act 1984. In 1987, the commonwealth government responded to a request from the then Labor government in Victoria to amend their legislation to better protect Aboriginal heritage in Victoria. This resulted in the insertion of part IIA into the Commonwealth Act 1984. Whilst part IIA was significant legislation for its day, it is now time to bring the responsibility for the protection of Victoria's Aboriginal heritage back to Victoria. Victoria has a rich and diverse Aboriginal cultural heritage. The purpose of this bill is to protect that heritage. This bill will accordingly repeal the state Archaeological and Aboriginal Relics Preservation Act, and relies on the commonwealth repeal of IIA of the Aboriginal and Torres Strait Islander Heritage Protection Act to have effect.

The government has conducted a broad-ranging consultation process in developing new Aboriginal cultural heritage legislation, starting in 2004 with Aboriginal communities and ending in December 2005, following the release of an exposure draft of the bill. One of the strongest messages taken from consultations with indigenous communities was the need to recognise the role of traditional owners in managing their heritage.

Aboriginal Heritage Council and registered Aboriginal parties

The bill addresses this concern by establishing an Aboriginal Heritage Council comprised of traditional owners, to provide a statewide voice for Aboriginal people on the management of cultural heritage. The council will be responsible for registering Aboriginal parties as cultural heritage decision makers for areas in Victoria and advising the Minister for Aboriginal Affairs in relation to the protection of Aboriginal heritage.

Registered Aboriginal parties will be responsible for protecting and maintaining Aboriginal places and objects of cultural significance within their area, through establishing cultural heritage management plans, advising on heritage permits, entering into heritage agreements and negotiating the repatriation of Aboriginal human remains.

In determining applications for registration, the Aboriginal Heritage Council will be required to take into account a range of factors, including whether the applicant is a native title claimant or holder, or has a traditional connection to an area, or can demonstrate a historical or contemporary interest in the heritage of an area coupled with expertise in managing that heritage. There may be circumstances where the council may register more than one Aboriginal party for an area if they are of the view it is in the best interest of achieving the objectives of the act and they are satisfied that it would not unduly hinder the operation of the act.

In exercising its powers of registration, the council must register native title holders for areas of land in which a determination has been made in their favour that native title exists. For those areas, native title holders will have exclusive decision making powers under the act. The council must also take into account the terms of any relevant registered indigenous land use agreement, whether applicants have entered into an agreement with the state in relation to land and natural resource management, and consider the interests of Aboriginal groups to whom freehold title to land has been granted under particular legislation.

Establishing a comprehensive register of Aboriginal parties covering the whole state will be a primary focus of the Aboriginal Heritage Council in the transition from the commonwealth act to the new Victorian act. It is envisaged that the register will for the first time provide the recognition of Aboriginal nations within a Victorian legislative framework.

Cultural heritage management plans, permits and agreements

Currently, many developments attract the need for an Aboriginal heritage assessment. Since 1987 in Victoria, developers have been required under commonwealth legislation to obtain the consent of local Aboriginal parties if a development was likely to interfere with or damage Aboriginal places or objects. The purpose of the heritage assessment is to establish the nature of any Aboriginal heritage present in an area, and to provide an informed basis for managing that heritage in the context of development. Whilst local government has been obliged to consider Aboriginal heritage in the planning process, there has been no legislative procedure to assist planners or industry groups in meeting these obligations. Consequently, assessment procedures have been inconsistently applied across Victoria, and major changes in land use have occurred without recognition of their potential impact on Aboriginal cultural heritage. Late consideration of Aboriginal heritage has resulted in delays to projects, costs to industry, pressure on Aboriginal communities, and poor or ad hoc protection of heritage.

This bill addresses these concerns by integrating the protection of Aboriginal heritage with planning and land development approval processes. The bill requires the preparation of a cultural heritage management plan at the planning stage of certain developments or activities. For example, developments that require an environment effects statement will require a cultural heritage management plan. Other circumstances in which a management plan is required for an activity will be clearly specified in regulations. Decision makers, such as local government, will not be able to issue a permit or authority for those activities until the management plan is approved. Registered Aboriginal parties are empowered under the bill to approve or not approve management plans. A decision not to approve a management plan can be reviewed in the Victorian Civil and Administrative Tribunal.

The bill also provides for cultural heritage permits in relation to activities that do not require a cultural heritage management plan, such as carrying out scientific research on an Aboriginal place or buying and selling certain Aboriginal objects. The Secretary of the Department for Victorian Communities determines permit applications, subject to any advice from the relevant registered Aboriginal party. Registered Aboriginal parties may also enter into cultural heritage agreements with landowners or Crown land managers under the bill, for example to access, maintain or rehabilitate Aboriginal places on private land or Crown land. The bill provides a process for the registration of cultural heritage agreements on land title if agreed by the parties.

Enforcement

The bill includes a range of measures to promote the effective enforcement of the new legislation. The Minister for Aboriginal Affairs will be empowered to order a cultural

heritage audit where the minister reasonably believes there has been, or is likely to be, a contravention of a cultural heritage management plan or cultural heritage permit.

The bill retains the existing power of the minister or an inspector to issue a stop order where there are reasonable grounds for believing that an activity is harming, or likely to harm, Aboriginal heritage. Existing powers for the minister to make longer-term declarations of preservation have also been retained, with modifications to improve the effectiveness of these provisions.

Since its introduction into the Legislative Assembly, house amendments have been moved by the government. With respect to stop orders issued under part 6 of the bill, the amendments clarify the intention that the Minister for Aboriginal Affairs can revoke any stop order, and that an inspector can revoke a stop order made by him or herself, and that only the minister has the power to extend a stop order. Further, in appointing or reappointing inspectors under part 11 of the bill, the amendments clarify the intention that the Aboriginal Heritage Council may advise the Minister for Aboriginal Affairs but not veto a decision to appoint or reappoint an inspector.

The bill modernises offences relating to harming Aboriginal heritage, breaching stop orders, and breaching protection declarations over Aboriginal places and objects. It also updates the maximum penalties for these offences to provide an effective deterrent against harming Aboriginal heritage. The bill also provides for increased responsibilities, accountability and support for inspectors appointed under the act, consistent with authorised officers appointed under other Victorian legislation.

Commencement and review

The commencement of the bill will be aligned with the repealing of part IIA of the commonwealth Aboriginal and Torres Strait Islander Heritage Protection Act. The transitional arrangements are intended to recognise existing decisions under the commonwealth act. The Victorian government appreciates the degree of cooperation shown by the commonwealth to allow for replacement legislation. Within five years of its commencement, the legislation will be reviewed to ensure the scope of the legislation is adequate and to ensure its efficacy and efficiency.

I commend the bill to the Council.

Debate adjourned for Hon. W. A. LOVELL (North Eastern) on motion of Hon. Andrea Coote.

Debate adjourned until next day.

ROAD SAFETY (DRUGS) BILL

Second reading

Debate resumed from 2 May; motion of Ms BROAD (Minister for Local Government).

Hon. R. H. BOWDEN (South Eastern) — I rise to make a contribution to the debate on the Road Safety (Drugs) Bill. The opposition is supporting the bill because it is a further initiative to improve road safety in a meaningful way. There is strong support for the extra measures that are contained in the bill in relation to roadside testing for illicit drugs. The bill also makes a change to the registration fees and charges that apply to heavy vehicles and articulated vehicles so that they are returned to the state for registration and costs and the provision of those regulations. Those are the two main points contained in the legislation.

I would like to begin by saying there is strong support in the community for the improvements to road safety that will undoubtedly flow from the provisions of this bill when it has completed its parliamentary process. I will mention several features of the bill and then go into some detail. From 1 July the sunset clause that exists in the current legislation will be removed so that the ability of Victoria Police to conduct roadside testing for illicit drugs is extended beyond that sunset time. We think that is good and we support the measure.

The illicit drug called ecstasy will now be included on the list of drugs to be detected, and motorists will be subject to random testing for that drug. We think that is desirable because ecstasy is of concern to the community. It is undoubtedly an illicit drug which causes impairment to driving ability and the ability to control either a motorbike or a motor vehicle. Ecstasy is now able to be detected and is covered by the penalty arrangements. The third major point about the legislation is that by implementing it Victoria will be able to participate in a new national scheme for heavy vehicle registration charges.

Coming back to the illicit drug detection arrangements in the legislation, I remind honourable members that testing for illicit drugs on roadsides in Victoria was commenced on 13 December 2004. I understand it was a world first, and it has been well received by the community. There was a great deal of publicity at the time the testing process was commenced. The methods employed are able accurately and reliably to detect illicit drugs in the body of a person in charge of a motor vehicle. This major change has improved the basic legislation, the Road Safety Act of 1986, and is part of a progressive improvement process achieved through different amendments. We can look with satisfaction towards seeing a decrease in the number of fatalities and injuries as this measure is further applied.

What we as a legislature expect from the adoption of the legislation is further prohibition of and stronger enforcement against drug-driving. The legislation will give Victoria Police the ability to carry out those tests beyond 1 July 2006. The detection and penalty arrangements will also apply to the use of the illegal

drug MDMA, which is also known as ecstasy. I will try and pronounce the full chemical name of MDMA, which is a challenge. It is methylenedioxymethylamphetamine.

Hon. Andrea Coote — Say it again?

Hon. R. H. BOWDEN — I will say it again in response to the Deputy Leader of the Opposition. It is methylenedioxymethylamphetamine, which is known as MDMA or ecstasy. Under the legislation that will be able to be detected as an illegal drug.

Hon. B. W. Bishop — Well done!

Hon. R. H. BOWDEN — I thank Mr Bishop; I appreciate his support. The available statistics for 2003 and 2004 regrettably indicate that 30 per cent of drivers and riders killed in Victoria tested positive for drugs other than alcohol. I shall repeat that for honourable members, because it is an important but sad statistic — 30 per cent of drivers and riders killed in Victoria in the years 2003 and 2004 tested positive for drugs other than alcohol. That imposes a high cost on the community and poses a high risk for other users of the road system who may not have any exposure to or use those drugs. Those who have unfortunately left us have left a concerning legacy in the grief, financial costs and emotional costs that are attached to that sad road toll.

There is no case for driving or riding a vehicle in Victoria or anywhere else with a concentration of illicit drugs in your body. The overall point is that such drugs impair the ability of the vehicle operator to perform their tasks properly, and therefore that impairment has to be detected and penalised. There is strong support for that.

We now have improved technology, and through that improved technology detection of MDMA, or ecstasy, is now assured. Some interesting statistics show that in the first year of tests there were a total of 13 176 roadside drug tests. Sadly, and unfortunately, 2.1 per cent of all those tested were positive — 1 driver in every 46 pulled over at random and tested was positive to MDMA or tetrahydrocannabinol (THC). On random tests the number detected was four times the number detected on a similar sample for alcohol. It is typical that approximately 1 in 100 random tests for alcohol is positive. So for every 100 drivers or riders tested for alcohol you might find 1 who is positive, but the sad statistic that has forced this desirable action is that 1 in every 46 tests for these drugs is positive.

Drug testing employs different technology from that used in alcohol roadside testing, but there are no difficulties in terms of the technology or the ability to test. There is now a well-established process that is able to be handled as an operational matter by Victoria Police. There does not appear from our position as a legislature to be any real technological or operational reason why the state cannot proceed with confidence to further support the use of these testing methods for the detection of what is absolutely irresponsible and indefensible behaviour.

I shall briefly make some comments about an article at page 9 of today's *Herald Sun* that has the most unfortunate headline 'Drug report exposes amphetamine explosion. We top ecstasy abuse'. The article lists about 8 or 10 countries with the worst level of abuse. Australia is at the top of the list. The list of the 10 nations with the highest number of ecstasy users as a percentage of population shows Australia as having 4.2 per cent, the Czech Republic, 2.5 per cent, and New Zealand, 2.2 per cent. It goes down to the United States of America at 1.1 per cent and Ireland at 1.1 per cent. The article states:

> More than 2 million Australians have taken illegal amphetamine-based drugs.
>
> And Australians are the biggest users of ecstasy in the world, per head of population.

It goes on to say that a senator estimated that 1 in 10 Australians had tried these illicit substances. It then gives some further revealing information. The article says:

> Police arrested 77 333 people for drug-related offences in Australia last year and seized more than 13.6 tonnes of illegal drugs.

It then says:

> There has been a 556 per cent increase in the number of amphetamine-producing clandestine laboratories detected in Australia since 1996.

It continues:

> Seventy per cent of people arrested in Australia have used illegal drugs in the 30 days before being arrested.
>
> …
>
> Forty-one per cent of females detained by police tested positive to amphetamines and 29 per cent of males did.
>
> …
>
> Australians snort and inject almost three tonnes of cocaine a year.

The article goes on to give some other very alarming and interesting statistics and comments, which I will not continue with because the house has been very

helpful in allowing me to present from this article already, but it does say that cannabis use is increasing.

Fortunately roadside drug testing is able to detect cannabis use, and with the increasing use of cannabis and the fact that it unquestionably impairs the ability to operate a motor vehicle, then the more testing that is done and the more recalcitrants that we detect and penalise, the better, because we need to have safer roads.

So if we acknowledge and accept the newspaper statistics that have been provided in today's press, it gives us some calibration of the cause for concern that exists in relation to the need to apply this technology and further support and provide the resources for roadside testing for drugs and other illicit substances.

I thought honourable members would like to have some further calibration information in relation to the size of the problem and the supporting data that might help to give them a better understanding of the importance of the bill and the measures that it brings into the legislative arrangements.

I refer to the Australian Bureau of Statistics information provided to me by the parliamentary library today regarding motor vehicles on register. Page 11 of the ABS motor vehicle census statistics shows that in the year 2005 Victoria had 467 557 light commercial vehicles, 18 618 light rigid trucks, 70 079 heavy rigid trucks, 21 183 articulated trucks, 15 837 buses, 107 581 motorcycles, and a grand total of motor vehicles registered and operating in this state of 3 649 582. If we have over 3 million operating registered motor vehicles in this state and 1 driver in 46 tested at random is shown to be positive for illicit drugs, we have a massive problem. The need to implement the detection and penalty regime is very urgent indeed, and that is why we support the bill.

Sadly each state and territory in Australia experiences deaths and serious injuries on a too-regular basis. Again in the At page 37 of the ABS statistics there is a table of the number of deaths by state or territory and road user for the period 1980 to 2005. In 2005 in Victoria 166 drivers, 78 passengers and 49 pedestrians were killed. The total of all road user fatalities in Victoria for 2005, according to page 38 of the ABS statistics, was 348. If we can do anything constructive to lower that number, lower the number of serious injuries and reduce other trauma, shock and costs, we should do so.

The number of fatal crashes by state and territory between 1980 and 2005 is also listed in table 29. This is detailed on page 35 of the *Road Deaths Australia 2005 Statistical Summary*. It shows that in 2005 there were 316 fatal crashes in Victoria, which is a change from 2004 of 1.4 per cent. But the average change, encouragingly, between 2000 and 2005 was a decrease of 3.3 per cent, down from the figure of 373 fatal crashes in 2000. So some progress is being made. There have been many measures put in place and an increase in all sorts of administrative arrangements and detection processes that have fortunately resulted in a decrease in fatalities, and I would assume that would be reflected in a corresponding decrease in the number of serious injuries.

I thought honourable members would like to reflect on the fact that we have a total of more than 3.6 million vehicles in the state and that 1 in 46 users of those vehicles, when pulled over at random, are testing positive for illicit drugs. That is an appalling statistic, and it is indefensible.

The other aspect of this bill I would like to address is the change of arrangements for the registration of heavy vehicles. From now on the registration and permit fees for heavy vehicles will be set by the states as part of a negotiated and agreed national approach to which the states will be parties. Section 95A of the Road Safety Act 1986 will be repealed to take into account the fact that previously under the federal government legislative arrangements those fees that were set in the Australian Capital Territory were reflected as the fees that would apply in the Australian states. That situation will now change, and the ability to set those fees and charges for heavy vehicles will now be returned, as would be expected by many people, to the states and territories themselves.

No-one can object to this; it is logical. In some ways it is an administrative change back from the commonwealth arrangements — which were agreed to previously by the states — to the states themselves. We do have one concern, and we do not want it misinterpreted. I will delineate this quite clearly. In terms of the change in registration fees and charges for heavy vehicles, bringing them back to the state is fine — I have no objection at all to that — but we do not want it misinterpreted that the opposition is relaxed about the possibility that the state government will use our support of the legislation to signify our desire for, or as encouragement in any way, shape or form of, a significant increase in the cost of registration or permit fees for heavy vehicles.

It has been suggested it is possible there will be a 30 per cent increase in the level of registration and permit fees that previously applied in the Australian Capital Territory. There is no constraint or capping in the

legislation to prevent a state, such as Victoria, or any other state or territory, lifting its fees above those that applied in the ACT in the year 2000 by the potential level assessed at 30 per cent. I suggest it would be entirely wrong for anyone reading the report of this debate to believe the opposition is supporting an automatic increase. We are not supporting that; we do not want that to be a confusing measure. We are supporting the benefits of the road safety and drug-testing regime; we are supporting the desirability of detecting recalcitrant drivers of motor vehicles; and we are supporting the return of the ability of the states and territories to set their registration and permit fees for heavy vehicles. But we are not giving carte blanche support to the present state government of Victoria to just go ahead and say that the opposition supported an increase in fees. We are helpful, but we do not intend to mislead anybody. I have spent time on that point so that it is not possible to misinterpret the intent of the opposition on the cost of registration and permit fees.

We are suggesting to the government that if it becomes overenthusiastic with this new power and races out — as it has with several other state costs and so forth — and starts to ramp up the registration and permit fees for heavy vehicles, we will not be happy about that at all. Transport companies tend to service niche markets and operate widely across the state and the rest of Australia. We have a strong, vibrant and most desirable transport industry based here in Victoria. The Australian Bureau of Statistics list I referred to earlier shows that we have more than 15 000 buses, more than 21 000 articulated trucks, more than 70 000 heavy rigid trucks, more than 18 000 light rigid trucks and more than 467 000 light commercial vehicles. So if the Bracks government wants to race out and start putting up the costs of the trucking or other transport industries because of the passage of this legislation, we suggest it should think very carefully about the cost impact that those increased registration and permit fees would have on the cost structure of moving goods and supplying services throughout this state, particularly in rural and regional Victoria.

I would also suggest to honourable members that it is reasonably well established and understood that the profit structure of operating a transport business is small. The profit structure is quite modest; it is supposed to be about 2 to 3 per cent, and that is by no means a major profit level. So any unreasonable, unexpected impact imposed by government on the cost structure, such as would be the case if the registration and permit fees were to be unreasonably and rapidly increased, would be a cause of real concern, not only for the opposition but also for the industry itself given the fact that there is a large number of different vehicles operating in many ways across many niche markets across the nation and throughout rural and regional and metropolitan areas of Victoria.

We were given an assurance by the state government at the briefing and during other inputs that the state is not intending to take unreasonable advantage with this new arrangement for raising revenue which will return to the state. I mention that in terms of fairness, but we are signifying our concern that there should not be a rush of blood to the head among the people in the Department of Treasury and Finance with over-enthusiastic recommendations to the Bracks government to unrealistically and unreasonably raise the cost structure for the transport industry.

As honourable members know, given the circumstances and cost situation in relation to fuel supply, adding further costs at the present time would be a cause for real concern for tens of thousands of hardworking, honest Victorian families and transport workers. We want to make sure that is well and truly appreciated by the government as a legitimate point of view.

We are totally supportive of the most desirable measures in terms of roadside testing for illicit drugs. It is our hope — and I trust the hope of all honourable members in this chamber — that the technology for detecting heroin will become available in the near future. It is not available right now. Hopefully it will become available soon; I would really like to see that because heroin has been a long-established problem. If we could gain the ability to detect the illegal use of heroin — and it is illegal — we would be making a significant advance in road safety.

We can now detect MDMA, or ecstasy, and cannabis, and that is really good. If a scientific and reliable method of detecting heroin were available, it would be an excellent measure. I encourage the state government to do everything it can to seek on a world-wide basis any technical information to speed up making available the accurate detection of heroin so we can add that to the armoury for finding those people who are so uncaring and irresponsible as to drive a vehicle while impaired by illicit drugs in this state. It is just horrifying that 1 in 46 drivers who are pulled over and tested at random show a positive result, and there are more than 3 million vehicles. That is just scary. We need to support our fine police force and give them all the equipment, tools and support, both the physical resources and facilities and also the moral support, needed to detect those people who are so uncaring and cause so much carnage on the roads, harming not only innocent people but also themselves. The cost to the community is unreasonably high. We are keen to do

everything we can to play our part, as we will today in supporting this legislation, to further restrict the exposure to those who irresponsibly drug-drive in this state.

Hon. B. W. BISHOP (North Western) — On behalf of The Nationals I have much pleasure in rising to speak on the Road Safety (Drugs) Bill. As usual, The Nationals have consulted quite widely on this bill. As I will touch on in a few moments, one of the best responders in our consultation program is the Royal Automobile Club of Victoria. We certainly get some good responses from the RACV, be they from Professor Ken Ogden or from David Cumming, particularly on issues such as the one were are discussing today.

Our position is not to oppose the bill. The reason is that we are very strong supporters of road safety. Like the Liberal Party, the opposition, we do have some concerns even though during the briefings from the department we have had advice that our concerns have no basis. But we will touch on those later on.

This bill has three main purposes. I will go through them one at a time. The first one is to remove the 1 July 2006 sunset on the random drug-testing program so that the program can continue. This program has been in place for a couple of years. It did have a hiccup or so in the early stages and I think that was most unfortunate, but we have been advised during the briefings and in the information given to us that most of those issues were operational ones and they have been ironed out. The program will have the bar lifted on the sunset clause and go on into the future.

When we looked at this bill we were very keen to get advice on how these tests have gone during the pilot period. It was interesting to note that out of over 13 000 tests done — and that is a lot — 2.1 per cent were positive. Of course we are talking about testing for the drugs cannabis and speed in this instance. We were advised that when those tests were done they were confirmed at the next two stages. The first test is the roadside saliva test. It then goes to the drug bus, if it is positive, and from there to the laboratory. Our advice has it that of all the tests that were conducted, three were faulty, two of which were operational failures. All in all The Nationals believe that is a pretty good result for a program that was pretty tough to put in place.

As I have said before, the RACV is a good supporter in giving us its views on whatever bills we are tackling. One point it raised was that it is pleased the sunset clause has been removed, and it believes the program itself has been successful. Another point it raised was the following question: what sort of research has shown that ecstasy is a causal factor in road crashes? Certainly we had a good look at that too; it was a good question from the RACV. We had the same question ourselves. It is quite clear that when the pilot program was put into place ecstasy was not a high-use drug. Certainly the research did not show that. But as time went on that changed, and we found that ecstasy use had tripled in incidence and doubled in the number of incidents coming before the Coroners Court. That is a good reason for us as a community to move towards including ecstasy in the program.

Another question that was raised during a consulting process was: how accurate were the saliva testing procedures for detecting ecstasy? We are advised that the level would be the same as in previous testing. I suspect that in fact as the drug testing goes through those three stages — that is, the saliva test, the drug bus and in the laboratory — certainly a lot more of those samples will give us a better idea of how that goes. I suspect ecstasy detection will come out at about the same level as the other two drugs that are being tested at this point.

Another question raised during our consultative process was: how long does it take for the saliva test to be done? It is our understanding it takes around 5 minutes. We suspect it would be about the same as other tests, but if anyone has more information on that we would be happy to hear it in this debate.

Another question was raised by a number of people interested in how many drivers had been intercepted by the drug bus. We have been through the percentage of drivers who have shown significant levels of impairment and some have been at a more serious offence level. Because of the good briefings we get from the department we got a bit of information on that. It appears from that advice that about 90 per cent of drivers detected from the roadside drug-testing system with prescribed illicit drugs while driving have been issued with traffic infringement notices, and the remaining 10 per cent have been charged or will be taken to court. That was a good question and it certainly seems to us that this program is working quite well.

The other question that came out of the consultative program was that a number of people — and the RACV, too — believe that the government should also publish the evaluation of the drug-driving program. The RACV believes it is important that any evaluation of trial legislation be transparent. This would help to ensure community support for roadside drug testing. I am sure all of us agree with that. I hope the government will do that in this instance. We have seen a good

success ratio in the first two years. I think to take the community with us and have its confidence we need that transparency, and transparent assessment of the programs.

We have also noted in the research that 30 per cent of driver fatalities in 2003 and 2004 had drugs other than alcohol in their systems at the time of death. That raises a question for all of us as a community — should we not test for other drugs? I think it is a good question. At the end of the day it is a question of balance, the balance between proceeding too quickly in this seen-to-be-difficult area or too slowly. It is a difficult question. I suspect the community would feel the same way — there is a growing trend. They have no patience now with people who abuse alcohol and drive. I believe that is particularly so in relation to the abuse of drugs and driving.

It is interesting to note that during our research we got an email from the Drug Advisory Council of Australia. It probably adds some support to my last few words. It states:

> Another death from the party drug ecstasy in Adelaide highlights the use of party drugs.
>
> …
>
> More ICE addicts than heroin addicts.
>
> The ABC program *Four Corners* has highlighted that in Australia there are more addicted users of the party drug ICE than heroin.
>
> The only Australian study highlights that there are 73 000 dependent ICE users in Australia.
>
> ICE is a new party drug 20 times stronger than amphetamines and experts claim that ICE is one of the most addictive illicit drugs known.

Perhaps we need a bit more research to assess how much further we can go with this drug program. I reiterate that our community is now at a stage where it would support more vision in this area.

I have said before in this house that Victoria, if it does not lead the world, certainly leads Australia in driver behaviour. That is basically through enforcement. We have been leaders in the wearing of seatbelts issue and random tests for blood alcohol content — and speed cameras have had an effect as well. The debate in relation to enforcement and revenue is always about balance. We certainly need to have another look at what more we could do in relation to testing for drug-driving.

Good education, particularly for our young people, is most important. We in The Nationals strongly believe education ought to start in our primary schools. It need not be too overbearing but we need education for smaller kids. It could be part of their traffic education and include information on drugs and alcohol and the privilege it is to have a driver licence. We strongly believe that education should move into the secondary schools. We are strong advocates of a mandatory curriculum in relation to pre-licence driver training and education. Some people would say the school curriculum is already too crowded — and that might be so. That is a reasonable comment.

Again we get back to balance and the priorities in our community about what is the best thing to do. I am sure any family that has suffered a loss through a car or traffic accident would support more education in our schools. Some pre-licence driver training and education programs are scattered around our community. There is one at Mildura, where I am based, one at Charlton in my electorate, one at Shepparton and at Alexandra, as well as others. Members of the all-party parliamentary Road Safety Committee have discussed these issues at length. I think there is general agreement that education is a very important part of the program we are talking about today and the wider field.

It is a bit frustrating when we talk about education that often we cannot get our message through or get the funding required because not enough research has been done. How can there be a really good assessment of it unless someone has done the research? If there are very few programs, it makes it difficult to make that decision. If you look at a graph showing the involvement of younger people in road accidents, it is very obvious that they are much more at risk than anyone else who drives on our roads.

We would like to see much more education particularly in pre-licence driver training and education and have it a mandatory part of our secondary school curriculum. We need to put the resources in to do that. We believe the flow-on effects would be very rewarding in our community. In those education programs particularly in the secondary area we find that parents pick up a lot of the side issues as well. I think that is important.

That covers the first two points in the bill. We move on to clauses 4 and 5, which talk about the registration of heavy vehicles:

> Section 95A presently sets a cap on Victorian fees for heavy vehicle registration and permits based on the fees that apply in the Australian Capital Territory under the Road Transport Charges (Australian Capital Territory) Act …

The section is being repealed. The fact that the issue has created some concerns was raised by the Honourable Ron Bowden. If the cap is taken off, a state could go

and do what it liked. That is not the advice we received during the briefing. The advice to us was very clear that there is no intention of doing that at all.

> Clause 5 is a transitional provision that provides that the repeal of section 95A of the Road Safety Act 1986 on 1 July 2006 will not affect the fees presently payable, pending the making of regulations to prescribe new fees. It is intended that these new fees will be consistent with a national scheme to be determined through a regulatory impact statement process conducted by the National Transport Commission.

We have already had one of those. I mention that briefly because I think we want to do that. I made some comments after we had received all our briefings. It seems to me that the changes we are talking about today in relation to registration charges for heavy vehicles are to facilitate those national charges being applied. It could simply have been linked to the Road Transport Charges (Australian Capital Territory) Act 1993. However, it appears to me that for the purposes of state rights it will be facilitated by a regulation in Victoria's Road Safety (Vehicles) Regulations. So be it. If that is the case, if that is the way the state wants to play it, that is okay, so long as it is a national agreement on heavy vehicle registration charges

During the briefings we were very strongly advised that this would be a national approach. We will hold the government to that. We must have consistent pricing and rules across state borders in this country because our road transport industry operates right across Australia and there is nothing more confusing and frustrating than changes of rules across state borders. We must have consistency. It has been annoying and frustrating to us that on this issue Victoria has seemed to want to be a bit different for some reason or another. I cannot understand why. We used to have template legislation which was generated out of the Australian Capital Territory — —

Hon. T. C. Theophanous interjected.

Hon. B. W. BISHOP — It may not have been only registration: there may have been other transport matters. That template legislation went across each state and everyone had the same. But for some reason or other we seem to have drifted into what we now call model bills. We saw in the chain of responsibility that we were a bit different. We were not quite the same as the other states, which is annoying. We have seen model bills in boating rules, registration details and rail safety. I believe we saw them reflected in a bill that went through this house last time we sat. That bill should have been delayed. We argued strenuously to hold that bill until the commonwealth had put its bill through so that we could have a common set of rules right across Australia.

I hope the Victorian government or whoever is going to do this, does not play funny fellows and attempt to fiddle things behind the scenes, because we are going along with this process in good faith on advice that it will be a national registration scheme decided between the states and the commonwealth.

The National Transport Commission brings forward pricing determinations from time to time — I was discussing this earlier today with one of my colleagues — and it had the idea that it should increase registration charges and a couple of other things in relation to B-doubles and road trains. They were substantial increases. From memory it was about a 37 per cent increase. That would have had quite a dramatic effect on the road transport industry. We could not quite understand why the commission wanted to do that, because in our investigations it appeared that our road transport industry in Victoria and in Australia is very efficient. It did not seem at all fair or reasonable or at all sensible commercially to drop a huge increase on this particularly vital sector of our transport community.

But there is always good news. The good news was that the system worked and sanity prevailed, and if I might say it worked for a couple of reasons. One of the major ones was that we had some very strong leadership from the commonwealth government where the minister responsible, Warren Truss, the Minister for Transport and Regional Services, voted quite early in the state and commonwealth voting process. He showed leadership, and the other states followed along and voted out those severe increases. We believe that was the right thing to do for a heap of reasons, but particularly because our road transport industry is highly efficient.

The other main reason is that we will have a Productivity Commission inquiry on the road transport industry which, as I understand it, will be put in place either at the end of this year or at the beginning of next year. That seemed a far better way to go in relation to the process that was originally thought up by the National Transport Commission. We have had a lot of people help us on that. Some of the major assistance we have had is from a gentleman called Neil Gow. He has done a great job in advising us of the Australian Trucking Association's views, and it has certainly been a pleasure to work with Neil Gow over these times.

I again make the point that this is a national industry because that is how it operates. I will quote from a couple of paragraphs that Neil Gow sent me which will bring that together. He said:

> Australia has a world-class road freight transport industry which has delivered extremely competitive road freight transport costs over an extended period of time, whilst maintaining its safety performance. This has been achieved through technological innovation, regulatory reform and the removal of excessive indirect taxes on the trucking industry. This environment needs to be preserved in order that the Australian trucking industry can continue to efficiently carry the majority of Australia's non-bulk domestic and export freight.

He finishes by saying:

> As the trucking industry currently pays its way, based on the level of cost allocation to heavy vehicles calculated by the NTC —

the National Transport Commission —

> we believe there should be no change in current charges.

That debate has come and gone, and I think the right decision was reached there. The system of having a national approach with the states being involved and the commonwealth government being involved led to the right result in that process.

I cannot conclude any discussion on road transport, which is an important part of this bill, without emphasising that in Victoria and in Australia we need a world-class road/rail multimodal system. We certainly need that if we are going to double our freight task by the year 2020. I do not think anyone challenges that estimate of what the task will be. I would suggest to the house that the road industry has met that challenge. The words of Neil Gow from the Australian Trucking Association clearly show that trucking operators have used infrastructure and have used technology — have used everything they can — to stay at the most highly efficient level possible. Compare that — as I must — with what has been done by rail operators. I do not think they have done the same. I am talking predominantly about the freight area here. I do not think it is necessarily all the fault of the operators in rail. I think it is a mix of responsibilities which governments need to respond to if we are going to have a world-class road/rail multimodal system in Australia, and in our case in Victoria.

What frustrates us in country Victoria is that we have had promises that started in the 2000–01 budget of $96 million being allocated to the upgrade and standardisation of our rail lines. A number of lines were to be completed in 2002 and the balance of them by 2005. They have not been done. Much has been said about it and much has been argued in this house and in the media. I think it is fair to say the government has played the blame game. The Independents have done the same. They have blamed Freight Australia for it; they have blamed Pacific National, which now leases the lines. There are a couple of major issues there. One is the rail upgrade and one is access to the lines. In relation to the rail upgrades, the rumour mill has it — I really hope it is true — that in the budget announcements we will be discussing in the house after the budget comes down there will be some movement on the front in relation to the upgrade and standardisation of our railway lines. I hope that is the case, because although there has been a lot of talk and a lot of promises, nothing has happened. So if there are any announcements this time around, let us have a bit of action rather than empty promises.

I suggest action could be taken. The Nationals have argued consistently — this fits in with this bill almost completely because what we are talking about in the third aspect of the bill is the cost of transport, how it is managed, how it is looked at and how the regulations, charges and fees are put into place — that they believe the state has had a couple of chances to buy back the remaining years of the rail lease. The government has said it cannot be done. We reckon it can.

In the *Weekly Times* of 26 April, Danielle Le Grand did a great job of bringing up these issues. I will quote her article, in part:

> Toll's takeover of Patrick Corp gives the Victorian government a second chance to force Pacific National to invest in the state's decaying freight rail network.

She goes on to say that we have suggested that the government missed a valuable opportunity to buy back the lease when Pacific National bought Freight Australia. We have said that the chance to buy it back now or improve conditions on approving the transfer should not be missed. We strongly believe that. We really do. We think there is a great opportunity in there to do that, and we believe the government should rise to that opportunity. If the government does not, it just means that it does not really care about country Victoria and is not prepared to invest in the necessary technology and the infrastructure even as it sees the road transport industry make its way through the processes being established for it.

The part that frustrated me the most concerned access fees for rail transport — and it appeared that someone had come up with an idea for fixing it. An article by Danielle Le Grand on page 8 of the same edition of the *Weekly Times* talks about the Essential Services Commission (ESC) fixing access fees for rail transport. Rail is a direct competitor to road transport, which is what members were talking about earlier during the debate on this bill. This quote is an absolute ripper. The article states:

> ESC Commissioner Bob Scott said there was far less general freight and rail would not be able to compete with road transport if there was not a sufficient margin between rail and road charges.
>
> 'Road transport for grain isn't very competitive, so grain can bear a higher share of the costs', he said.

So the ESC said that grain should wear 20 per cent more than general freight. I am amazed about that, because most of us, including most members of this house, try to get the most efficient and competitive mechanism for transporting whatever products we own, and in this case we are talking about grain. I think it is just the opposite. On one hand we are trying to get governments to raise the efficiency of our rail transport operations — they will not do it, they will not bring the lines up to the standard necessary for us to become efficient— and on the other hand the ESC mob is saying, 'You ought to put the access charges up by 20 per cent'. In relation to that we find ourselves in a sad state of affairs.

In conclusion, I think this is an interesting bill. I think the bill will receive good community support in relation to the removal of the sunset clause on the random drug testing program. It will receive strong community support because of the inclusion of ecstasy in the random drug testing program. I suspect the community may also support what The Nationals are saying — that we ought to look a bit harder, push that balance a bit harder and look at other drugs as well, as we go through this process. I strongly believe that the community will more readily accept that now than it would have perhaps two or three years ago. We have no problems supporting the first two purposes. As I have said, and as my colleague the Honourable Ron Bowden has said, we have some concerns about the third purpose in relation to the setting of registration charges for heavy vehicles.

I want to lay this out very clearly: the advice we received from the government during the briefing — and we are taking the government at its word — is that this will be approached nationally, and the state will not be haring off and setting its own charges indiscriminately. Because of our thrust to try and ensure that we get a national set of transport regulations and rules, we do not oppose that purpose. In general the position of The Nationals is not to oppose this bill. We will watch with great interest each of the three purposes of this bill as the legislation comes into operation.

Mr SCHEFFER (Monash) — The purpose of the Road Safety (Drugs) Bill is to enable the random drug testing program that has been operating on a trial basis since 2003 to continue on an ongoing basis. The bill also adds ecstasy to the random drug testing program so that a person driving a vehicle who is found to have ecstasy in their blood or saliva will be guilty of an offence. The other purpose of the bill is to facilitate a national agreement whereby each state and territory will in future be required to set registration fees and permit fees for heavy vehicles directly rather than by referring to the commonwealth. In relation to this, the bill removes the cap on Victorian fees for heavy vehicle registration and permits, disconnecting them from the fees fixed for the Australian Capital Territory. This will enable Victoria to set its own fees for heavy vehicle registration and permits in accordance with a national fee structure that will be introduced after a final agreement between the states, territories and the commonwealth.

The provisions in the bill that relate to the random drug testing program should be understood in the context of Victoria's road safety strategy from 2002 to 2007 — Arrive Alive! This strategy is premised on the fact that the number of deaths and injuries caused by road crashes is unacceptable and on the assessment that they are avoidable. The government is determined to reduce the annual number of deaths and injuries arising from road crashes by 20 per cent by 2007.

In a brochure summarising Victoria's road safety strategy, the government said:

> In the 10 years to 1992, significant reductions in road fatalities were achieved. In 1997, Victoria recorded its lowest annual road toll for some 50 years. However, the strong downward trend of earlier years has slowed.

The road safety strategy addresses this worrying trend and consists of a number of initiatives, including ways to reduce speeding, improving road design, young and older driver safety, and reducing the incidence of drink-driving and drunk driving. The strategy summary says that the presence of drugs known to adversely affect driving ability has been detected in a quarter of Victorians killed on our roads. The strategy will further involve research into blood sample analysis and an examination of issues relating to better detection and prosecution of drivers whose driving performance is impaired by drugs. The strategy also involves the development of better education programs for motorists and health professionals.

The government has been tough on drink-drivers and on drug-impaired drivers, and it has introduced on-the-spot licence suspensions for first offenders who have blood alcohol readings of over 0.15, for learner and probationary drivers over 0.07, and for all repeat offenders. As well, alcohol interlocks have been introduced as a relicensing requirement for the most

serious and recidivist drink-driving offenders. This has resulted in nearly 1500 drink-driving offenders having court orders imposed on them that include an alcohol interlock condition. In relation to drug-driving, the government introduced random drug testing in mid-December 2004 involving roadside drug screening using a saliva test to detect the presence of the illicit drugs methamphetamine and tetrahydrocannabinol. Under the provisions of this bill, ecstasy will be included in this program.

The alarming thing is that in 2001, drug-driving was a factor in more fatalities than drink-driving. As I said earlier, more than a quarter — 29 per cent — of blood tests of drivers killed in road crashes tested positive to drugs other than alcohol. A majority of those drivers who were killed were using illicit drugs or abusing prescription drugs while they were driving. The minister pointed out in his second-reading speech that drug use may contribute to approximately 100 motor vehicle deaths in Victoria each year. That is two a week, so clearly this is a very significant issue.

The bill includes ecstasy in the random drug testing program. The Drugs and Crime Prevention Committee's final report into amphetamine and party drug use in Victoria gives a comprehensive account of ecstasy. It states that the drug is an empathogen that:

> … releases chemicals into the brain that inspire feelings of wellbeing, love, friendship and euphoria.

As with any illegal drug, there is no reliable quality control and that means that users cannot predict the effect the drug will have on them and their behaviour and capacities. The final report indicates also that sometimes a substance passed off as ecstasy can contain other chemicals that may have unpredictable effects and may even contain toxins that can cause death. The final report states also that:

> Ecstasy is in the curious position of being classified as a stimulant with hallucinogenic properties. Its stimulant properties speed up the activity of the central nervous system, while its hallucinogenic aspects affect and distort perception and awareness. While the hallucinogenic effect is not as strong as it is for LSD, the effect would certainly interfere with judgment and impair driving ability.

Ecstasy is an illegal drug and therefore there is no legitimate reason for a person to consume the drug or have it present in their blood or saliva.

Under the provisions of the bill, the police will be empowered to require an oral fluid to be taken from any driver at the roadside. The presence of the specified illicit drugs in the body within 3 hours of driving will be an offence. The system that will be used for roadside drug screening will be similar to that used for deterring people from consuming alcohol and driving. The process involves the intercepted driver undergoing a standard alcohol screening test that takes about 20 to 30 seconds. Then a preliminary drug screening test that takes about 5 minutes is conducted on the roadside. If the result is negative, the driver is allowed to go. Where the preliminary test shows the presence of either amphetamine or THC or both, the driver is asked to go to a testing vehicle where a second oral fluid screening is conducted. If that test is negative, the driver is allowed to go.

For that driver, the entire process takes about 30 minutes. Where the screening shows the presence of amphetamine or THC, the driver is told that fact, the sample is divided and one part is given to the driver and the other is sent to a laboratory for analysis. The driver is allowed to go, but if subsequently amphetamine or THC shows up in the blood then legal proceedings will follow. The process is based on the successful trials of roadside drug testing.

The preliminary oral fluid tests undertaken on the roadside have proved to be very accurate. Very few cases of a positive oral fluid test have been overruled by a negative laboratory test. Most of the subsequent negative results have arisen when drivers have tested positive for pure ecstasy. The inclusion of ecstasy as a prescribed illicit drug will mean that that inconsistency will not arise. When the trials commenced some problems were identified but subsequently they have been fixed.

The other main aspect of the government's Arrive Alive! policy relates to travel speeds. The government has taken considerable steps to reduce speeding on our roads. I list some of those because it is important to place them on the record in a debate such as this. I mention the introduction of the 50-kilometre-per-hour default limit in built-up areas. On its own that has led to a 13 per cent reduction in casualty crashes on affected streets and around a 40 per cent reduction in serious casualty crashes involving pedestrians. As well, the mobile flashless safety camera program has been expanded from 4000 to 6000 hours per month. That expansion, in concert with tougher enforcement strategies introduced by Victoria Police, has been a major contribution to the reduction in the annual level of fatalities, particularly in metropolitan Melbourne. In addition, the installation of new speed red light cameras at key intersections in Melbourne and regional centres has reduced the frequency of red light running and the severity of crashes.

In 2003 legislation was adopted by the Parliament to permit the use of a point-to-point camera system on the Hume Highway. As members will know, that system measures the speed of vehicles travelling between two designated points on the road network. In addition, there has been the provision to and deployment by Victoria Police of additional speed detection devices — that is, hand-held lasers involving mode radar devices for cars and motorcycles — which are used particularly in country Victoria. I mention also the introduction in late 2002 of the responsible driving package, which lowered demerit point thresholds for speeding and introduced loss of licence as a penalty for persons detected driving at 25 kilometres per hour over the speed limit. In December 2003 the government introduced a 5-demerit-point limit in any 12 months for probationary drivers.

What does all this mean? I was heartened to hear Mr Bowden and Mr Bishop applaud the current legislation. It is good that they share the concerns of members of the government about the road toll and injuries on the roads. But I am disappointed and actually quite alarmed by the opposition's lack of support for the government's efforts to reduce speeding. I am even more alarmed about the constant undermining of and nitpicking about the government's efforts to reduce speeding on our roads, which is one of our main causes of deaths and injuries. It would be helpful if members of the opposition re-examined their policies in these areas and if over the radio and through other media we heard a lot more support of the government's program rather than the rather useless undermining of a very important policy strategy.

Returning to the bill, its provisions will contribute to reducing road crashes and the consequent fatalities and injuries. It is very important legislation and I commend the bill to the house.

Hon. DAVID KOCH (Western) — I have looked forward to making my contribution to the debate on the Road Safety (Drugs) Bill. I congratulate my colleague the Honourable Ron Bowden and our colleague from The Nationals the Honourable Barry Bishop. They have both made great contributions and have firmly laid out the opposition's support for the bill before us.

As members have said, the bill has three purposes. The first is to remove the sunset clause relating to the current random drug testing program. The bill includes ecstasy — it joins cannabis and speed — in that roadside testing program. It also makes changes to the system of registration and transport permits for heavy vehicles at a state level rather than nationally. Eventually we would like to see those fees being structured and scheduled at a national level — that is, across all borders — because we know full well that our transport industry is a national industry and not one that operates only within state boundaries.

Members of the opposition can give only unqualified support to the first two purposes of the bill, but the amendment to the cost of heavy transport registration strains my capacity for support. It was indicated at the briefing by the government that it is not the intention to increase registration fees for heavy and articulated vehicles out of hand, but who still trusts the word of members of the Bracks government, who have demonstrated repeatedly that their word is not their bond? Members need only look at the Scoresby freeway, rail standardisation, the air rescue helicopter for western Victoria and similar examples to see that.

Clause 1 repeals the original sunset clause. Initially the legislation was due to sunset six months after the introduction of random roadside testing. Time goes quickly. That was back on 13 December 2004. Due to the success of the testing program, that period was extended for a further 12 months until 1 July 2006. I think all legislators in the Parliament of Victoria would totally support the lifting of the sunset provision.

There is no doubt that the introduction of random drug testing by the Bracks government was a brave stance and was similar to the introduction of random blood alcohol testing. From that point of view the government should be congratulated. I do not say that lightly, because I am not one who stands up and congratulates the Bracks government on a regular basis. We were concerned at the introduction of the program with what one could only say was the shameless media spin the minister used at that stage to raise his own personal profile. Regrettably that badly injured the integrity of Mr John de Jong, who was later found not to have come up with a positive test but who was used as a bit of a puppet on the way through. That was a disgrace. We have gone well past that now, and we recognise the success of the program.

Random drug testing results to date clearly demonstrate the need to pursue testing and to test for a wider spectrum of particularly recreational drugs. The addition of ecstasy to the testing program, with cannabis and speed, should be seen only as a very good starting point. Hopefully in the near future we will have the capacity to move further and include other drugs. The evidence tells us that many people use a cocktail of recreational drugs, and how each of these drugs interacts with the others needs to be borne in mind. Hopefully the parameters will be widened to pick up

other drugs, such as LSD, ICE and heroin, all of which have been mentioned today.

The strike rate of positive tests will keep us continually concerned. As has been referred to today, over 13 000 tests were done in the last 12 months and 287 of those were positive, which equates to 1 in 46. That is a huge number of people who are driving around on our roads with illicit drugs in their bodies. For that reason I would like to see random drug testing operations increased. Until testing was introduced there was a lot of doubt about drug usage and dependence, and we now know it is far greater than many in the community, including me, would ever have thought. The really scary figure is that in the period 2003–04, 30 per cent of drivers who were involved in driving fatalities tested positive to illicit drugs. That is an extreme number, and certainly more work has to be done in this area.

That can be compared to testing for alcohol in the bloodstream. Random testing results for alcohol are now something in the order of 1 positive in every 265 tested. Many of us would appreciate that that is still too high and would like to see that come down further. I am sure that as our education programs are further embedded, that will occur. One of the things missing in the random testing programs, be they for alcohol or for drugs, is a multi-testing system. Those who are tested for alcohol are not swabbed for drug use. I hope that somewhere along the line such tests can be introduced by having breathalysers at random drug testing stations and, vice versa, swabbing at random alcohol testing stations. I know that the testing procedure for drugs takes longer than the use of the breathalyser, but perhaps after the swabbing takes place the swabs could go off to a laboratory and the results given at a later date to those who have been swabbed. There is an opportunity there and some consideration should be given to it.

The last point in the bill relates to the heavy transport industry. We have been given assurances about any registration cost increases. Without getting too deeply into the debate, I suggest the Bracks government should be aware that it has lost the trust of many in the private sector, especially those in small business. The days of saying, 'Have no fear, you know we are battling for you; we are open, accountable and transparent', are long gone. No-one in business trusts the word of this government and, sadly, they have come to accept that the Premier and ministers Brumby, Hulls, Thwaites and Batchelor will continue to pull dollars out of their pockets at every opportunity. There is no doubt about it; they are chronic tax collectors and just cannot help themselves. Transport operators, both large and small and several in between, have made representations to me expressing their horror about where the industry is being dragged, especially with the increased fees over the last six or seven years.

People in the transport industry are certainly not mugs. In my opinion they are some of the straightest and best members of our business community. Transport operators work damn hard and do everything possible to stay within the law. They need the red tape and shackles of most of the recent legislation to be removed, not continually grow to the point where those things start to strangle their businesses, as we are seeing happen now.

I refer to the National Transport Commission advocating increases in fuel prices and registration costs for B-doubles and road trains. It was particularly sensible of the Howard government to recognise that the proposed increases in fuel prices of 10.5 per cent and in registration costs of up to 35 per cent just could not be tolerated within our transport industry. It is important that consideration be given to having continuity across the borders, especially with registration. Fuel excise remains the province of the federal government, but from a registration point of view we have to be terribly conscious of the on-costs associated with moving registration fees.

As a rural member of the Liberal Party, which recognises the importance of viable business enterprise, especially in regional Victoria, I am very conscious of the impact these increases would have on those I represent, especially primary producers wanting to move produce out. Any increases would go back to the farm gate, and any such costs would be pushed on to consumers in the local shopping community. There is little doubt that that would further disadvantage those living in regional Victoria. Once these costs become a burden to the industry we could easily enter the bad old days of overloading, excessive driving hours and poor vehicle maintenance.

Recently a large transport owner expressed his concerns to me about where he saw the industry going. He said that unfortunately the return on his capital invested is now only in the order of 1.5 per cent. In the last couple of years he has been flat out making 1.5 per cent. It is only the size and diversification of the operation that allows him to remain liquid. The other concern he has is that currently money is not going back into roads as it should be. He is now finding that the cost of maintaining his vehicles is growing, the drivers are having trouble maintaining the hours they had in the past, and of course the danger issue is continually arising. Regrettably, again last Friday we saw at Trawalla another incident where the lack of the duty of

care and a lack of money being put into safety resulted in the loss of life.

In closing, the Liberal Party supports the lifting of the sunset clause on random drug testing and would like to encourage the government to broaden the scope of the drugs included in the schedule. Unlike my colleagues I have some reservations about trusting this government to not support increases in revenue through higher registration fees, especially in our heavy transport industry. In the short time I have been in the Parliament this government has traded its trust far too cheaply. People in business and in regional Victoria do not need to be reminded of that.

Hon. J. H. EREN (Geelong) — I rise to speak in support of the Road Safety (Drugs) Bill 2006 which follows the Road Safety (Drug Driving) Act 2003. The Bracks government has taken great strides in road safety in recent years and the bill before us today continues that great work. I would like to name some of the changes we have made in the past including the 40-kilometre an hour speed limits around schools, the 50-kilometre an hour default speed limits, safety cameras, increasing penalties for speeding, increasing enforcement activities for drink-driving and of course, the hoon legislation which I was particularly proud to have been able to help make law through my position in this place.

Despite all our good efforts — and my colleagues Mr Bishop and Mr Stoney are on the Road Safety Committee with me — unfortunately a lot of people are still dying on our roads, which is dreadful. I am sure all of us are striving to the best of our ability to cut the road toll. To tell the truth one death on our roads is one too many and that is why we cannot afford to allow drugs to go unnoticed on our roads.

On the way to Parliament this morning I was listening to radio 3AW — I think that is what it is called: it has changed its frequency from 1278 to 693. I was shocked to hear that Australians are the highest users of ecstasy in the world and that was confirmed by a federal department. I was devastated by that. I did not think we would be the highest users of ecstasy in the world; that is very shocking. We understand that alcohol has a devastating affect on our senses when driving in the same way that drugs do. We have determined that people with a blood-alcohol level of over 0.05 are incapable of making the correct decisions when driving, and therefore should not be allowed to get behind the wheel of a motor vehicle. We understand that drugs like marijuana and ecstasy have the same effect. Unfortunately, not everyone understands that and so we have had to make this law.

One-third of all drivers killed on our roads tested positive for illicit drugs. That is a dreadful figure. To a certain extent it shows the dangerous culture being established in Australia. We all need to be very mindful of our young ones who experiment with such drugs and eventually drive on our roads to ensure they do not continue that very dangerous trend. As a government we must address that.

It is also very important to note that it is not only illegal drugs that can affect the way we drive. Before I go on I would like to point out that it is very pleasing to have consensus on this bill. Collectively we will send a strong message to the community that this Parliament is very serious about the issue.

As I said before, illegal drugs are the first things we think about when we talk about drugs and driving. But we must also consider the effects prescription drugs have on us when we get behind the steering wheel. On 8 April the *Geelong Advertiser* published an article on page 5 by Danny Lannen titled 'Legal drugs causing road deaths'. The article quotes senior Geelong traffic policeman Senior Sergeant Shane Coles as saying he believes prescription medication might be playing an increased role in road fatalities. The article states:

> Senior Sergeant Coles said he believed problems might be worsening with an ageing population living on increasingly complex cocktails of medication, and with increased prescriptions of drugs for depression.
>
> Senior Sergeant Coles said use of prescription drugs had loomed as a common denominator in a series of fatal accidents.
>
> 'Speed and alcohol are still an issue, and drugs,' Senior Sergeant Coles said.
>
> 'It's not just amphetamines and speed and stuff like that; probably some of the most dangerous ones are medically issued by a doctor. We had a fatal a while ago we couldn't really determine, a single vehicle ran off a road and as the thing has overturned a multitude of medication has fallen out of the car — prescription stuff.'

He urged people to be fully aware of the potential effects legal drugs or a combination of drugs might have on them. I think it is a very important message to send to the wider community that when we get behind the wheel of a car we should be very conscious of what we have consumed before we drive.

In the same article, Australian Pharmacy Guild Victorian branch vice-president Toni Riley explained that 'Things people might be taking for high blood pressure can cause not so much drowsiness but can affect perception or reaction times and they might not even know. They are not feeling drowsy or woozy but it has actually slowed their reaction time, which is

really important when driving.'. It is very important to get the message across to the wider community that we should all be taking extra care when taking prescription medication and driving because it can have an equal if not worse affect as illegal drugs in some cases. As I said before, with such a strong message coming out of this Parliament people will realise that we are fair dinkum about this issue.

I could not let a road safety debate go past without making a few comments about some remarks made by the Leader of the Opposition in the other place, Mr Doyle, about the speed limits on the Princes Freeway at Geelong. Basically the paper reported that Mr Doyle was somehow condoning people driving at 120 kilometres an hour on that road.

Hon. Andrea Coote — Did you say 120?

Hon. J. H. EREN — It was 110 kilometres an hour plus the 10 per cent leeway.

Hon. Andrea Coote — Come on!

Hon. T. C. Theophanous — It is actually 122!

Hon. J. H. EREN — Actually I underquoted it. You need to be very specific. It is easy for people to go out there and try to win some votes. On this occasion it was not thought out. Both government and opposition leaders should listen to the experts in relation to road safety. On this occasion the Leader of the Opposition in the other place got it wrong again.

In summary, it is proposed to introduce a system of roadside drug screening for the presence of methylenedioxymethylamphetamine, known as ecstasy, similar to that which is used in drink-driving studies. It shows that these drugs are highly impairing and produce an increased risk of being responsible for a fatal crash.

This is a good and sensible bill. As I said before, all my colleagues on the Road Safety Committee always endeavour to make roads safer, and we work cohesively on that committee. It is a serious committee, because it looks into road accidents that involve loss of life. Therefore this is a good and sensible bill which I support.

Motion agreed to.

Read second time.

Third reading

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — By leave, I move:

That the bill be now read a third time.

In so doing I thank all members for their contributions to the debate. I know that all members in this chamber are concerned about road safety and care about minimising the toll to the smallest number possible, if not zero. I again thank them for their contributions and wish the bill a speedy passage.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

VALUATION OF LAND (AMENDMENT) BILL

Second reading

Debate resumed from 2 May; motion of Hon. J. M. MADDEN (Minister for Sport and Recreation).

Hon. D. McL. DAVIS (East Yarra) — I am pleased to make a contribution to the debate on the Valuation of Land (Amendment) Bill, and in so doing I indicate that the opposition will not oppose the bill but will seek to move amendments, which I will circulate shortly.

In beginning my contribution it is important to indicate that there have been a series of papers relating to many of the issues around the Valuation of Land Act 1960. A discussion paper setting out the proposed amendments for the reform of that act was circulated in May 2004 and a further directions paper was issued by the Valuer-General in January 2005, both under the purview of the Department of Sustainability and Environment. I make the point that those papers canvassed a number of issues, but this small bill does very little.

Given the opportunities for a fairer and better process of land valuation that the government could be said to have had with the bill, the fact is that it has copped out and failed to achieve a significant or fair reform of the land valuation system. The Valuation of Land (Amendment) Bill can be seen to be a failure in that respect. Many in the community are creaking under the burdens that the valuation of land imposes on them

through land tax and other imposts. The fact is that the Liberal Party believes a lot more could have been done and a real opportunity has been lost.

Notwithstanding that, we will not oppose the bill but seek to move amendments which fall into two categories. As part of the various discussions that have occurred through this series of papers, there has also been communication between the opposition and a number of associations and bodies. It is important to put on the record a number of the comments of those bodies. There has also been discussion in the press about a number of these issues. I know that the member for South-West Coast in the other place has been very active on this issue, and he has made a number of comments, as have bodies in his neck of the woods, and they have certainly provided strong information to the opposition. I am pleased to have received some of that information.

The Municipal Association of Victoria has provided some information, and the Australian Property Institute has been active in this area. The Revenue Management Association has certainly made its points, and the Australian Property Institute and the Municipal Group of Valuers have made a number of valuable comments to the opposition. It is probably not necessarily for me to record all of those contributions, but I shall note a couple. The Municipal Association of Victoria in February 2005 made some comments about supplementary valuations, which is one part of the bill. It said:

> The MAV is concerned that the burden of certifying supplementary valuations is substantial and will result in severe time delays before the Valuer-General certification is completed. As a professional qualified valuer prepares supplementary valuations there is some doubt about whether the tedium of certification would add any value to this process.

Concern about that has been put by a number of associations. The Revenue Management Association said in a letter about supplementary valuations to the Valuer-General in July 2004:

> The need for the Valuer-General to confirm supplementary valuation is considered totally unnecessary.
>
> The Valuer-General already approves and confirms the basis and validity of general valuation figures through the VBP process. Supplementary valuations are based on the same levels of value and utilise the same calculation tables as the general valuation. The objection process is designed to identify and correct any valuation errors.

It went on to say:

> Even if the suggested two–four week time line was achieved, it would impact on the issue of rate notices and result in a loss of revenue to councils. Timing is a critical factor in processing supplementary valuations and amending associated rates and charges.
>
> The additional administrative costs associated with this proposal would be significant.

The purpose of this bill is:

> (a) to amend the Valuation of Land Act 1960 to —
>
> (i) enhance the objection, review and appeal processes;
>
> (ii) require the valuer-general to certify all supplementary valuations;
>
> (iii) make general amendments;
>
> (b) to make consequential amendments to the Victorian Civil and Administrative Tribunal Act 1998;
>
> (c) to make a minor amendment to the County Court Act 1958.

The requirement that the Valuer-General certify all supplementary valuations will be the subject of one of our amendments.

The bill has a significant impact on land tax. One of the issues that surround land tax is that people are concerned that they do not have the opportunity to object at the time when the land tax valuation comes through.

Therefore an earlier valuation is done, and to many people the immediate connection between the valuation and a land tax bill that could be received up to two years later is not made. They may not object at the time, and the current law fails to enable that process of objection.

I know the community feels quite strongly about this — I have had that put to me by many people in my constituency — but I am aware also that more broadly this is the case: that people are concerned that the opportunity to object at the time the land tax notice comes to people is not available. That will be the subject of one of our other amendments. We will seek to insert an arrangement that would provide for a subsequent notice of valuation, given the opportunity. I think the bill is an example of the government being a do-nothing government and wimping it badly.

This is an area crying out for reform, and I believe in time the government will be judged harshly on its regime of taxation. It is a cruel regime — a regime that hurts people and has some basic unfairnesses.

Hon. T. C. Theophanous — We've reduced it!

Hon. D. McL. DAVIS — Mr Theophanous says the government has reduced land tax. In fact it has not reduced land tax. The amount of land tax collected in this state is much greater now than it was in 1999, and any fair assessment — —

Hon. T. C. Theophanous — The top rate has come down.

Hon. D. McL. DAVIS — But the valuations of property have gone up massively. In the whole period of the Kennett government there was very little increase in the total take of land tax, but over the period of this government there has been a massive increase in the amount of taxation taken from the rate base, and that has hurt people badly. Many small businesses have struggled; many pensioners, people who have put away — —

Hon. T. C. Theophanous — The percentage has decreased.

Hon. D. McL. DAVIS — That is true, but the value of land has gone up so much that the total collection is much greater and the total impost on people is much greater, as Mr Theophanous well knows. He is a smart enough individual to understand the terrible impact it is having on communities like those in his electorate and the communities in my electorate, and I know there is great concern about that.

Hon. T. C. Theophanous — There are more people in your electorate paying land tax than in mine.

Hon. D. McL. DAVIS — Let me give Mr Theophanous an example here. I read from a news article in a local paper in my area, the *Progress Leader*, under the heading of 'Squeezed dry by land tax'. If Mr Theophanous does not think this land tax is a huge impost on the community, he is very much mistaken. The article states:

> A leading anti-land tax campaigner says he has been forced to sell his dry cleaning business, partly because of escalating land tax costs.
>
> Fairer Land Tax Association president Rowan Woolcock, who owns Dennisons Dry Cleaners in Camberwell, put his business on the market in December.

I continue to want to quote from this article in the *Progress Leader*. Mr Woolcock said:

> The jobs of his six employees were now under threat. Mr Woolcock said his land tax bill rose from $800 in 1999 to a whopping $16 000 last year. The future of his business now lies in the hands of the new owner of the premises. He said land tax was the 'worst tax we've got'.
>
> …
>
> 'We are being squeezed out of business. Land tax is a major factor'.

The misunderstanding of the impact of this tax and the slippery and untruthful approach of the Treasurer, John Brumby, perpetuated today by Mr Theophanous, that the land tax take has in some way reduced in this state is quite wrong.

Another article in the *Progress Leader* of 24 May 2005 states that there was a rally outside the office of the member for Burwood, who is the Parliamentary Secretary for Treasury and Finance, and I note the contribution made by him to debate on this bill in the other house, where he seemed to not quite get the significance of these land tax imposts on his community. I note that in the debate in that chamber our shadow minister for Planning, Mr Baillieu, challenged the member for Burwood on this matter. It is clear that the parliamentary secretary did not understand that there was a huge impost on people, for example, in Camberwell — a suburb that was singled out.

I take another example to refute Mr Theophanous's interjection. I refer to another article headed 'Rally pushes tax plea'. There was an 'Axe Bracks land tax ' poster at this rally, which is a very good thing.

Hon. T. C. Theophanous — He'd be a member of the Liberal Party!

Hon. D. McL. DAVIS — There certainly would be members of the Liberal Party there because the tax hits members of every political party. People pay tax no matter what their political views, and they get slugged by the government irrespective of their political views. A lot of Labor people get slugged massive amounts of land tax as well, I have to say. The article continues:

> Mr Stensholt said his office door was always open, but he was disappointed the group would not recognise land tax reforms made in the recent budget.
>
> 'I've been talking with local people about land tax for four or five years, so it's not like it's something new', Mr Stensholt said.
>
> 'We continue talking to local businesses; we have been out there working for people on this issue and we've actually done this for people by taking $2 billion of land tax away in that period'.

That is nonsense. More land tax is collected. The article quotes a Glen Iris retired businessman, Mr Ingham, who said he had been slugged for purchasing four investment properties over 40 years to fund his retirement. He said:

> My land tax from 2000 through to 2005 has risen about 1700 per cent.

He said his land tax bill had gone from $600 to $19 500. That is shameful. If Mr Theophanous thinks that is a cut in land tax — $600 compared to $19 500 — he must be in Noddyland. He must be one of the few people in the state who thinks $19 500 is a smaller figure than $600. I do not know how he could think that, and what is more, I find it extraordinary that a Labor member who purports to represent Burwood would not be concerned about the impact of land tax, and Mr Theophanous, like the member for Burwood — —

Hon. M. R. Thomson — A fantastic member!

Hon. D. McL. DAVIS — He is not a fantastic member. He is the Parliamentary Secretary for Treasury and Finance, and he has responsibility for the setting of land tax rates. He works with the Treasurer every year in framing the budget and setting these land tax rates, and the parliamentary secretary should accept some responsibility.

It is about time he explained the matter to people in the Burwood electorate — to people in Camberwell, in Ashwood, in Ashburton — who are paying these extraordinary land tax rates. It is about time he came clean and did something about this. He has on every occasion supported the government as it has raised its land tax collections.

On every single occasion he has been prepared to slug these people in the Burwood electorate hard, and to drive businesses like Mr Woolcock's from the local area. I think that is disgraceful, and the parliamentary secretary should be held to account for that by the electorate, and I believe it is about time he stepped forward and told us whether he really believes these land tax rates are good for his electorate. Why has he never been prepared to speak out publicly against the impost that has occurred?

Ms Carbines — On a point of order, acting President, I draw to your attention the fact that the member has been speaking now for some minutes about a member in the lower house, making reflections on that member, and I ask you to draw him back to the bill and direct him to withdraw his comments about the member for Burwood.

Hon. D. McL. DAVIS — On the point of order, I have made no reflections on the member other than policy reflections — legitimate matters of political debate that relate directly to the valuation of land, which is the subject of the bill.

The ACTING PRESIDENT (Hon. B. W. Bishop) — Order! There is no point of order. I call on the member to continue his speech and return to the bill.

Hon. D. McL. DAVIS — I am very concerned about the behaviour of Labor members. It is about time those Labor members who have supported the valuation and taxation regimes which have slugged small businesses in this state with massive imposts of land tax were held accountable.

Mr Pullen interjected.

Hon. D. McL. DAVIS — Mr Pullen should be accountable, and Ms Carbines should also be held accountable for her support of the government policies that brought about the land tax impost in Geelong.

Ms Carbines interjected.

Hon. D. McL. DAVIS — The government has not brought it down. I say to Ms Carbines that the people of Geelong are paying more in land tax because of the higher land valuations which are the subject of this bill. Her government is slugging the people of Geelong. I would be very interested to know whether Ms Carbines will talk to the minister, who has now entered the chamber, about this bill. Perhaps he could provide us with the land tax collection total for the Greater Geelong City Council area for 1999, and then perhaps he could provide us with the figure for 2005. I would be very interested to compare the raw figures on how much land tax has been ripped out, wrenched out of Geelong by Ms Carbines and her crew since the government came to power. The answer is a massive amount more in tax, for which she should be responsible.

Mr Pullen interjected.

Hon. D. McL. DAVIS — The people in Mr Pullen's electorate have been slugged by the state valuation regime which has allowed values to rise, and there has been no appropriate adjustment of scales. So that we know what occurs in places like Higinbotham and the Bayside City Council area, perhaps the minister would be prepared to provide the valuations of properties and the land tax collected — if not today, perhaps at a future point — so we can know how much extra money Mr Pullen has ripped out of his electorate with the Treasurer. Mr Pullen is like a tax collector. He moves around his electorate slugging small businesses and retirees. There is extra tax every single year. He should hang his head in shame.

The truth of the matter is that this Valuation of Land (Amendment) Bill does nothing substantive to deal with the problem of unfair valuations. It does nothing to give people greater opportunity to object to valuations. It does nothing to give people the opportunity to object at the time when the land tax bill lands on their desk and slugs in on them two years after the valuations happen. They have no ability or right to go back and say, 'Look, I am sorry, that valuation was false. It was unfair. It was incorrect in some manner, and I have thereby been slugged with more land tax'. That key point will be the subject of a Liberal amendment. I seek to circulate my amendments now.

Opposition amendments circulated by Hon. D. McL. DAVIS (East Yarra) pursuant to sessional orders.

Hon. D. McL. DAVIS — Amendments 1 and 4 would be the ones used to test the two key issues. I know there are a number of issues that remain. I will not raise a number of points in the same detail as Mr Baillieu did in the lower house when he put on the public record some of the key comments made by members of important associations and so forth. Those groups have made a very valuable contribution, and I and the rest of the Liberal Party are thankful for the assistance provided to us and indeed to the Parliament through the work of a number of those people.

The point is that the Valuation of Land Act goes to the core of the many issues that surround property valuations and in certain ways impacts on the planning process and, as I said, the effect of the taxation regime in this state. The minister may wish at the commencement of the committee stage to provide some guidance on whether the discussion papers of May 2004 and January 2005, and indeed the June 2005 stakeholders discussion submissions, could be made public.

The opposition at briefings and on other occasions has sought from the government the information that is contained in those submissions to the government. It seems to me that if the government is going to run a discussion process, a process where community consultation and community input is sought, those submissions by and large — there may be the occasional exception — ought to be public documents and made available not just to the opposition but also to other interested parties in the community.

We have sought those submissions, and I will ask the minister, perhaps at the start of the committee stage, whether he will provide them — or perhaps he would like to make some comment on the way through as to whether the government would consider providing copies of those submissions to the opposition. It seems to me that a government that was elected on a platform of alleged accountability, openness and transparency would provide those submissions to the community. I have copies of those discussion papers here today, and if we are going to have a genuine debate which raises these important issues, it would seem only fair that those submissions are made public and provided to not just the opposition but also the broader community. I seek from the minister some clarification as to what the government's intentions are.

I also seek an indication about some of the issues surrounding the valuation totals for the various municipalities. The minister may be able to make those figures available to the chamber. It might not be difficult for him to do that, but the actual valuations as aggregated by the Valuer-General might be provided to the chamber as well.

I do not have a great deal more to say about the specifics of the bill, but I think it is a further example of the fact that the government's planning and administrative processes are in chaos. I am sure Mr Vogels will have seen that at the local government level, but there is certainly chaos in the government administration of planning in this state. This is another example of an impost and a chaotic process that is not as transparent as it ought to be. It is an example of a process where the government is not providing opportunities to the community. I indicate again that the opposition will seek to go into committee and move amendments.

Hon. W. R. BAXTER (North Eastern) — This bill is a bit like the proverbial curate's egg. It has got one or two satisfactory features, but it also has got some undesirable aspects to it as well. I had also prepared an amendment going to the issues the opposition is seeking to deal with. That being so and the amendments being almost identical, I shall not circulate or attempt to move my amendment. I will be happy to support those put by Mr Davis when we get to the committee stage.

Valuation of land is always a controversial topic in our community because it is an inexact science. There is no reason why it ought not be somewhat inexact, because markets vary all the time. Value is in the perception of the person who wants to acquire a particular property at a particular point in time. That can sometimes lead to quite extraordinary outcomes when properties are sold. Valuers have to take the various sales into account when arriving at a valuation across the board for a class of land. I for one have always been somewhat intrigued by valuers and how they bring all that evidence

together. It is not a matter of finding the middle ground; it is a matter of taking it all into account and coming up with a median and being able to substantiate that.

I have recently had cause to engage a valuer in an estate of which I am the executor. I have to say I was both surprised and I suppose gratified by the thoroughness with which the valuer went about putting a valuation on this parcel of farmland. He certainly did much more than just drive around the boundaries and cast his eye across the pastures — for example, he set out to establish the size of the irrigation outlets, the fertiliser history of the property and so on. I have to say that I gave him full marks for a very thorough job. The valuation he placed on the property was more than I was anticipating, but I do not dispute it because I am convinced that he was very thorough in his task.

I suppose this bill in some respects is a housekeeping measure in that it tidies up some aspects of the Valuation of Land Act and clarifies one or two issues in terms of time lines and the like. It also does a couple of other things which I am a bit surprised about. One of the things it does that I endorse is to provide for and give some statutory authority to the exchange of information when an objection is lodged between the valuer and the objector. It seems to me that a lot of objections are lodged by persons who are taken aback by a valuation that has been placed on their property. They think it is too high or they are concerned that their rates are going to go up or their land tax is going to be increased unnecessarily, and there is a bit of a knee-jerk reaction.

I think it is highly desirable that the valuer be obliged to demonstrate to the objector the basis on which the valuation was set. One would anticipate that on many occasions — perhaps not the majority, but on many occasions — objectors will come to realise that the valuation is soundly based and they will withdraw the objection. It has got to be in everyone's interest if the tribunal's time is not taken up with objections which do not have merit and the costs that would be incurred thereby can be avoided. I fully endorse the requirement that the exchange of information take place.

I am less certain about the provisions in the bill which require the Valuer-General to certify supplementary valuations. I acknowledge that it is probably wise for the Valuer-General to certify principal valuations to make sure consistency is maintained in valuations throughout the municipalities of the state. But it seems to me that fairly regularly — when circumstances change, there may be an improvement to the property or the like, or perhaps with the unbundling of water rights water is being sold off the property — a supplementary valuation needs to be made.

Why does the Valuer-General need to certify that? How can he certify the accuracy of that without doing it himself?

I am saying that in terms of the principal valuation, the regular two-yearly valuations, the Valuer-General has a series of benchmarks, and he can certify that the valuation returned by a valuer in particular municipality matches those benchmarks across the state. But how can the Valuer-General certify that, because on allotment 4A in the parish of Woop Woop a capital improvement has been made, a supplementary valuation is in fact correct without him actually looking at the specifics of that particular supplementary valuation? Bearing in mind that the quantum is not going to be great, surely we are not suggesting that the Valuer-General ought to incur a great deal of cost in checking the supplementary valuation before he certifies it.

It seems to me that something is getting a bit out of kilter here; we are getting too much Big Brother overseeing what the valuers are doing in terms of what is really pretty minor work in supplementary valuations — the day-to-day adjustments that need to be made between the general valuations. I am not convinced it is necessary.

I am sure it is going to cause a lot of anguish to municipalities because it is going to delay the issue of their rate notices. That means they have to postpone the due dates for rates right across the municipality. If they do not get their revenue in, it is obviously going to cost them money. They are either going to be paying overdraft fees at the bank while they wait for the postponed due date to come around or they are not going to be getting investment income on rates that they otherwise would have collected. I would say to the government that it should have another look at this. I am not convinced that what it is attempting to achieve with the certification of supplementary valuations is worthwhile. It is certainly not worthwhile in my view taking into account the difficulty it is going to cause to municipalities. I think it is one of the aspects of the bill that has not been properly thought through.

In respect of the amendment to be moved by Mr Davis which goes to the issue of the time one can object, it is similar to one I was intending to propose. It is to give people the opportunity to object to the valuation when they receive their land tax assessment. I cannot see any reason in terms of natural justice why a person receiving a bill for land tax and disputing the valuation

it is based on should not have the right to object at that point in time. The government says they could have objected when they got their municipal valuation. That could have been two years previously and they may not have taken particular notice of the site valuation at the time anyway bearing in mind that municipal rates are usually on capital improved valuations.

Hon. D. McL. Davis — I think it is almost everywhere now.

Hon. W. R. BAXTER — I think Mr Davis is right; it is probably 100 per cent now right across the board. It may not have occurred to them at the time that the site value is going to be used to assess land tax some two years down the track. Someone gets a land tax bill; it is a lot more than they are expecting and they wonder why. Mr Davis has already explained one of the reasons to the house. It is because this government has failed to adjust the scales to account for increased land values. That is one aspect of it. But clearly the other aspect might be that the valuation is higher than the land-holder believes it should be. Yet under the law as we now have it, and confirmed by this bill before the house today, their rights to have that queried, checked and examined are denied.

It seems to me to be a grave injustice that someone might be facing a land tax bill of very substantial proportions — into the thousands of dollars. We have heard a few quoted today. I understand that Rogers Seller and Myhill, a company more than a century old, is one of them. In my youthful days I was an associate of one of the founders of that company. 'Associate' is hardly the right word, given that I was very much junior to the lady. I am sure in that case when it got that sort of bill it must have felt put upon that it could not then object. Its land tax bill went up I understand by hundreds of percentage points.

Is that the sort of society we want to live in — that people who get those sorts of imposts are denied all rights to contest the valuation? I do not think we should be putting up with that. That is why I am going to support Mr Davis's amendment and why I prepared my own. We have to give taxpayers in this state the opportunity of a fair go. If you are denied the right to object to the valuation on which a tax is levied upon you, that is not fair or just. We as a Parliament have a responsibility to do something about it. That is what we are trying to do on this side of the house.

I want to finally speak about the unbundling of water rights. This process has now been postponed to 2008 because the government has been unable to work out how to fix the rating and valuation implications that it is going to impose and particularly impose on the eight or nine municipalities in Victoria which have substantial irrigation properties. I think it is a disgrace that the government has taken upon itself to make this change without having thought through the implications. That is not to say I do not agree with the principle. I think the principle is correct. Now that water is a tradable commodity, the same as grain, hay or livestock, there is no logical reason why the value of water held on that property should be included in the capital value for rating purposes.

I acknowledge that. But to come in and say, 'This is the change', and have all those properties reduced in value from a rating point of view without giving the municipalities an opportunity or a way through to maintain the stability of their rate revenue is a pretty poor show because clearly those municipalities just cannot re-rate the rest of the municipality to make up the shortfall. They cannot put the rates up on dry land farms or on businesses in their towns or on urban dwellers simply because the irrigation farmers are to some extent enjoying a windfall gain and the fact that their rates are going to be reduced because water is no longer included in their capital improved value. I am aware that the municipalities concerned, led by the Shire of Moira in particular but including Gannawarra and Mildura and others — Campaspe and Shepparton and the like — have had a number of quite unsatisfactory meetings with representatives of the government, and there does not seem to be a willingness on the part of the government to assist those municipalities to devise an equitable way forward.

At a meeting I had with a number of municipalities in Wangaratta on Friday last week I indicated that The Nationals are prepared to look at a transition package that will make sure those municipalities are not financially disadvantaged over, say, a number of years whilst a working party establishes a way forward, because it seems to me it is such a complex issue we need something like that to identify a solution. You cannot impose a differential rate. That is not going to work because of the varying levels of water right entitlement that is attached to particular properties. Water right has not been in the past accorded to properties under a standard formula. It has had a lot of variables, which has led to some properties having little water and some properties having a lot of water, so a straight differential does not solve the problem.

There are some issues out there which are not impossible but on which consensus has not been reached yet. It is very disappointing indeed that the government, through its departments, particularly through the Department of Sustainability and

Environment and the Valuer-General's department, has been less than helpful to the municipalities that are so vitally affected in working their way through it. I make a plea to the Minister for Water in the other place, bearing in mind that it is his action which is causing all this anguish and taking into account the fact that he is the Deputy Premier of this state, for him to take a little more interest in this subject with a view to overcoming the difficulties that are presently being faced by a significant minority of our municipalities.

This bill has some merit, but it has some features which I think are unworkable and are going to be costly, and which I would like the government to look at again. I shall certainly be supporting Mr Davis's amendment.

Ms CARBINES (Geelong) — I am pleased to speak in support of the Valuation of Land (Amendment) Bill 2006. I agree with Mr Baxter that the valuation of their land causes much consternation amongst many community members. I know that many Victorians take a very keen interest in their land valuation, which occurs every two years. They know that their local council rates will be based on the valuation they receive, and of course if they do — —

Hon. D. McL. Davis interjected.

Ms CARBINES — Yes, they do, Mr Davis. You had an opportunity to contribute and I suggest you let me speak now.

Hon. D. McL. Davis interjected.

Ms CARBINES — It certainly was.

The DEPUTY PRESIDENT — Order!

Ms CARBINES — Property owners know that their municipal rates will be calculated based on their property valuation. Those who are subject to land tax, which is only some 15 per cent of Victorians, also know that their property valuation will be the basis upon which their land tax levy will be calculated. At the time of their receipt property valuations cause much consternation amongst neighbours as they compare their valuations, and they often turn to their local MP for assistance in lodging an objection to their valuation. In my electorate of Geelong Province, particularly in the coastal townships where we have seen huge increases in property values over the last decade, property owners generally are pretty pleased to know that the value of their property has risen and that it is worth a lot more than when it was first bought. However, most property owners are also very worried about the valuation of their property and the subsequent increase in municipal rates causes some concern. Certainly the people who are hardest hit by the increase in their municipal rates based on their property value are pensioners and those on fixed low incomes, such as some retirees. The Bracks government has increased the rebate available to pensioners in relation to municipal rates — the first increase in over 20 years. I was very proud to be among the MPs that lobbied hard to see an increase in the rebate to pensioners for their municipal rates. It is therefore really important that we have a very robust and defensible system in relation to land valuation which provides for fair and equitable distribution of rates for property owners.

This bill seeks to improve the valuation system in place in Victoria by strengthening the provisions relating to the objection process. The provisions contained in this bill reflect the outcomes of a review that the government undertook in 2003 — the land information output review — which recommended that the Valuation of Land Act be reviewed. The Bracks government acted on that recommendation and undertook a review. A discussion paper was released in 2004 and a directions paper in 2005, so it has been a consultative process to review the act. In June last year the Minister for Planning in the other place, Minister Hulls, who is responsible for this act, held a stakeholder round table to which he invited many representatives of local government and the property industry to canvass their views on how to improve the land valuation system in this state.

The consultative process in relation to the development of this bill has been extremely robust and very wide. The bill amends the principal act in three ways. It introduces improvements to information exchanged during the objection process, it improves an objector's right to seek a review of the assessment and it strengthens the role of the Valuer-General in the objection process. It is very important to note — and one would not know this if one had read only Mr Davis's contribution — that the bill does not change the basis under which the municipal valuations are made but provides for an improved valuation objection and review process. Importantly it does not cause any increase to site value or land tax. It has nothing to do with that — it is about the objection process.

We are seeking via this bill to resolve disputes regarding land valuations as quickly as possible through meaningful discussion and mediation rather than having to resort to litigation which is costly and very time consuming. Specifically the reforms contained in this bill include an additional two months for the settlement of an objection before it proceeds to the courts. This gives objectors four months hopefully to come to a resolution regarding the valuation before an application

to the Victorian Civil and Administrative Tribunal can be made. We think this gives both parties the opportunity to resolve a dispute more quickly, and hopefully without it proceeding to the tribunal stage.

The bill also encourages better exchange of information between objectors and councils during the objection process. It will be mandatory for this exchange of information to occur on high-value properties. We are going to conduct a regulatory impact statement in relation to the determination of the prescribed amount for these high-value properties — that is an important part of the bill. The bill allows objectors to go straight to VCAT rather than relying on the local council to lodge a dispute with VCAT. That is an important part of empowering property owners so that they do not have to go through their local council to lodge a dispute. If during the mediation period of four months the dispute has not been able to be resolved, they will be able to lodge that dispute with VCAT themselves.

The bill also contains provisions in relation to the awarding of costs at VCAT. It will give VCAT more flexibility as to how it awards costs. The tribunal will be able to exercise its discretion and make its estimation based on evidence that covers a number of factors, including how well both parties have exchanged information. We feel this is an important step forward in relation to resolving disputes, because we know some councils have been reluctant to lodge disputes at VCAT because of concern regarding the awarding of costs.

The bill also clarifies the role of the Valuer-General in the objection process, which of course is very useful to all parties. Courtesy of Mr Davis, some proposed amendments have been put forward by the opposition. I understand Mr Baxter had some similar amendments which he intended to propose, but it sounds as though his have been subsumed under Mr Davis's proposed amendments. From Mr Davis's contribution, he obviously has not bothered to read the bill. His speech this afternoon was a typical Mr Davis stunt in the chamber — all flurry, all political point scoring and very little substance. I thought it was rather telling that he made such a short contribution to debate on this bill. He was the lead speaker for the opposition on this bill.

Mr Pullen — It was terrible.

Ms CARBINES — Yes, it was a terrible contribution. Mr Pullen is quite right. It was largely based on making rude remarks about members in another place, which is not appropriate at all.

Mr Davis's proposed amendments seek to give property owners a right to place an objection to their property valuation when they receive their land tax notice. The government will not be supporting the amendments because they are not needed. Property owners, at the time they receive their property valuation, are informed that the valuation will be used for other purposes, including the calculation of municipal rates, and will also be used for the calculation of land tax, if it is applicable. Let us remember that land tax is only imposed on 15 per cent of properties across the state — 85 per cent of properties do not receive land tax notifications. Land tax is not at all relevant to 85 per cent of properties.

Mr Davis would have honourable members believe that property owners who are subject to land tax, those who own property apart from their own homes, are somehow asleep at the wheel and do not wake up until they receive their land tax notice because they have taken no interest in their property valuation from two years earlier. That is the nonsensical argument that Mr Davis has attempted to prosecute this afternoon.

I put this to members: property owners are extremely interested in their property valuations at the time they receive them. The government has in place a longstanding objection process to property values. What we are seeking to do through this bill is to enhance the opportunity for property owners to object to the property valuation at the time they receive it. We have actually strengthened that, so it is nonsense for Mr Davis to come in here and attempt to convince members that they should support his proposed amendments when it is clear that people on whom land tax is levied should have not one but two opportunities prior to receiving their land tax notice to lodge an objection to their property value estimation — firstly, at the time of the receipt of their land valuation, and secondly, at the time they receive their municipal rate notice.

Somehow Mr Davis wants us to believe that property owners are asleep at the wheel and that they take no interest until they receive their land tax notice. That is absolute nonsense. We are strengthening the system so that people who want to object to their property valuation can, and hopefully will be able to resolve their dispute in a meaningful and timely manner. This bill seeks to enable that. It seeks to strengthen the process of objection to land valuation. It is responsive to the issues raised with the government at two different points in time — that is, during the review through the discussion paper and then the canvassing of the issues through the directions paper. The bill reflects the issues raised with the government at that time. Further,

Minister Hulls conducted a stakeholder round table meeting in which stakeholders in local government and across the property and development industries took part. They are supportive of the provisions in the bill.

The bill encourages mediation, discussion and information exchange and gives both parties to a dispute about land valuation time to resolve it. We want to avoid the need for lengthy, costly, time-consuming disputes that end up in the courts. Therefore this bill deserves the support of all members of this house and I wish it a speedy passage.

Hon. J. A. VOGELS (Western) — I also would like to make a few comments on the Valuation of Land (Amendment) Bill. The Valuation of Land Act establishes the process for the administration of land revaluations, including those used for rating and taxing purposes. The Valuer-General is responsible for certification of municipal valuations which form the basis of local government revenue collection.

It is interesting to note that rates make up approximately 40 per cent of a council's budget. When I was in local government in the Shire of Corangamite about 33 per cent of our income was from rates. Since the election of the Bracks government, with its ever-increasing rates, 40 per cent of the budgets of councils right across the state are made up of rates, and at some councils the figure is up to 44 per cent. Local government in Victoria receives revenue of about $5 billion and about $2 billion of that comes from rates, so valuation is a very important part of the basis of local government funding.

The government seeks to amend the Valuation of Land Act in the hope that it will encourage mediation rather than litigation. No-one could object to that; that is a good thing. However, the opposition maintains that the legislation could be much better and that is why we will move some amendments later.

At the moment the system has a deficiency because a person receiving a rate notice may not object to the site value, which in reality will be the basis of any land tax payable. All members will understand that land tax is payable on only the site value. Most councils across Victoria rate on the capital improved value, or CIV, principle, so there could be confusion if the property owner did not realise that any land tax would be payable on only the site value. I heard the speaker before me, Ms Carbines, say that people are not silly. Of course they are not silly. But I know also that many people who live along the coast are frail, old age pensioners who moved there 20 or 30 years ago when the property was not land taxable. The property is not their principal residence. They live there but it is owned by the family and yet the land is eligible for land tax. I know many people in that situation.

I also know many people in country Victoria who have a unit or some other residence in Melbourne for their sons and daughters to live in while they are at university. For the first time they have been slugged with land tax as well. As members are aware, land tax is payable on property which has a site value of $175 000 or more. Land tax is not payable on a principal place of residence, on land used for primary production, on land owned by a charitable organisation or, more recently, on a private caravan park.

Even with the proposed amendment to the act, objections to land valuations remain complex and contradictory. A landowner may object to the valuation of their land only on receipt of the valuation, not on receipt of their land tax bill. The fact that there is a two-year lag between when the land is valued and when the land tax bill is issued means that a landowner has no right to contest the revaluation.

Currently councils are required by law to revalue properties in their municipalities every two years. That is particularly onerous for rural councils, where valuers are as scarce as hens teeth. One would have thought that with modern technology, with the sale of properties and the values they reach being recorded — no doubt on computers — and with the stamp duties, GST and other fees and charges that need to be paid to councils and the state and federal government, that would automatically lead to a knowledge base of property values in a certain area or district. Why we still have to send valuers out to do site inspections every two years in every municipality is something that probably needs to be looked at.

Valuations of land not only provide for the collection of council rates, as I mentioned previously, but also support the collection of land tax by the state government. Members have been told that there are about 160 000 land tax payers in Victoria. Each and every one of us has constituents who have complained bitterly about the land tax bills they are receiving. A rate rise of anything up to 1000 per cent is not unusual.

It is worth noting that since the election of the Bracks government land tax revenue has increased by 104 per cent. It has gone from $400 million in 1999 to more than $800 million now. It is interesting to note also that when the Kennett government was elected in 1992 land tax was about $400 million and when it lost government in 1999 land tax was still about $400 million. So over the seven years of the Kennett

government land tax revenue did not increase, because the Treasurer in the Liberal government adjusted the formula to make sure that there were no windfall gains.

Not only has land tax gone up by 104 per cent since the election of this government but stamp duty has increased by 120 per cent. Fees, fines and charges now go up by the increase in the consumer price index. Insurance taxes have doubled to more than $1 billion. We now have land tax on properties owned through trusts, which never happened before. Members can see that this government loves to have its hands deep in the pockets of Victorians.

One of the differences between a Labor and a Liberal government is that this government fails to understand that just because you are running a business and the site value of the property on which you are running the business has increased — even if it has increased by 100 per cent — that does not mean that you have any more cash in the bank. It does not help you to pay your staff or the people who work for you. The site value might have gone from $1 million to $2 million but that does not give you any more money to pay your taxes, fines and charges.

As I said, the valuation of land greatly affects many people's lives. Councils and governments collect revenue from property owners who cough up around $2.8 billion a year. It is important to let the Valuer-General oversee the quality and correctness of all parts of the valuation process. I am also convinced that at some future date we need to have a good look at the fairness of property taxes in their present form.

I fully understand why property taxes were introduced some more than 100 years ago, probably — because the people with property were probably the people who had the money and other assets and they needed to pay rates and land taxes so that those who were less fortunate could share in the wealth of the country. In the 21st century that we are living in now, each year a larger percentage of people do not own property. They do not pay land tax or rates but they still use council facilities such as swimming pools, preschool centres, libraries, home and community services et cetera. As I said, at some future date we need to look at property taxes.

The opposition does not oppose this bill but will be moving amendments to it at the end of this debate.

Mr SOMYUREK (Eumemmerring) — I rise to make a contribution in support of the Valuation of Land (Amendment) Bill, which contributes to the ongoing enhancement of Victoria's municipal evaluation system by streamlining the objection process. The bill does not change the basis under which municipal valuations are made but provides an enhanced valuation objection and review process.

The primary focus of the bill is the enhancement of the objection process, which encourages the objector and the municipal valuer to enter into meaningful dialogue. This is designed to encourage early resolution, or mediation, of valuation disputes without resort to litigation. The bill achieves this by amending the Valuation of Land Act 1960 by introducing improvements to information exchange during the objection process, improving an objector's right to seek a review, and strengthening the role of the Valuer-General in the objection process.

Before I expand on these points I will give a background on how the amendments were formulated. The government's Land Information Output Review 2003 recommended a review of the Valuation of Land Act 1960 to improve valuation processes. In response to the recommendation the government embarked upon an extensive review and consultation process, which included the vigorous canvassing of stakeholder opinion. In May 2004 a discussion paper was released and thereafter, in January 2005, a directions paper was released.

In June 2005, under the guidance of the Minister for Planning, a stakeholder round table meeting was set up. The meeting received very strong support from the key stakeholders within the industry, and I will name some of them. They included the Property Council of Australia, the Australian Property Institute, the Municipal Association of Victoria, the Revenue Managers Association, the Municipal Group of Valuers, the Law Institute of Victoria and the Real Estate Institute of Victoria. They were the groups that were invited, and the fact that all of them turned up and made valuable contributions — —

Hon. D. McL. Davis interjected.

The DEPUTY PRESIDENT — Order! Mr Davis!

Mr SOMYUREK — It is disorderly.

The DEPUTY PRESIDENT — Order!
Mr Somyurek does not need to elaborate on my comments, but if Mr Davis had been listening to him he would have heard whether or not the law institute was mentioned by Mr Somyurek. Mr Davis has had his opportunity. He should let Mr Somyurek continue without interruption.

Mr SOMYUREK — I will get back to the ways in which the amendments will improve the Valuation of Land Act. The proposed reforms will set clear time limits for lodging an objection to a land valuation. Objectors will still have two months to object to their valuation, and there will be time lines for the remainder of the objection review process so it is completed as quickly as possible. The reforms will encourage a better exchange of information between objectors and councils during the objection process. This will be mandatory only for high-value properties. The definition of 'high value' will be set following a regulatory impact statement. I understand that will be happening fairly soon. The figure I have in my mind is $1 million, give or take $100 000 or so. The reforms will also provide more time for councils and objectors to resolve disputes before making application for review to the Victorian Civil and Administrative Tribunal and enable property owners to apply directly to VCAT or the Supreme Court.

Currently the process is completely unacceptable. Applicants need to ask the council to make a review application on their behalf, and I do not see why the extra step is needed. The reforms are encouraging and will assist in streamlining the process.

In conclusion, the bill provides improvements to the council valuation process which will contribute to the ongoing enhancement of Victoria's municipal valuation system by streamlining the objection process. I commend the bill to the house.

Motion agreed to.

Read second time.

Hon. D. McL. Davis — On a point of order, Acting President, the minister is not in the chamber. I wonder if you are able to explain where the minister is and why he is not in attendance — or perhaps the minister in the chamber could give that explanation to the house.

The ACTING PRESIDENT (Hon. J. G. Hilton) — Order! That is not a point of order.

Hon. Richard Dalla-Riva — On a point of order, Acting President, I am relatively new in this chamber, but I am sure we just cannot sit here waiting in silence, as we have been for the last minute or so, waiting for a minister. This is not the way a chamber should run. If that is the way it runs, then I accept your ruling, but I draw your attention to the fact that we have been waiting now for well over a minute and a half, and this is not appropriate.

The ACTING PRESIDENT (Hon. J. G. Hilton) — Order! There is no point of order.

Committed.

Committee

Clause 1

Hon. D. McL. DAVIS (East Yarra) — In relation to the purposes clause I want to draw the minister's attention to a number of general points relating to the bill including the reform process undertaken by the government. I have had discussions with the minister on these matters and it seems to me that the easiest way to facilitate this might be for me to ask him directly at this point about the general matters that relate to this clause and the bill overall.

As the chamber is now aware, a number of discussion papers were put out including one in May 2004 which was a review of the objection and appeals process and miscellaneous provisions of the Valuation of Land Act 1960. A directions paper was released by the Valuer-General on proposed amendments to the Valuation of Land Act 1960 in January 2005, and as number of speakers alluded to, there was a stakeholders meeting in June 2005. Submissions were made in respect of all of these processes, and documents were sent to the government. Those documents formed part of its decision-making process in relation to this bill and will also relate directly to its implementation. For that reason I seek copies of them from the minister. As I said, I have already flagged this with him.

In my contribution on the bill I also sought from him information from past years and for the most recent financial year around the collection of taxation in different municipalities. I wonder if he might address both of those matters in this discussion on the purposes clause.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — In relation to many of the issues that Mr David Davis inquired about, and particularly in relation to those investigative matters where there have been either consultations or submissions or basic communication or papers presented by the public, I am advised that the vast majority are not directly relevant to this bill. Whether those responses have either formed or not formed the basis of this is really a matter for the department and the relevant minister. I know Mr Davis is eager to either view those papers or obtain an understanding of what issues were canvassed in them or presented by the public through the consultation process. While it is not for me to offer or give the

member access to that information, I can inquire of the relevant minister whether the department can brief the member, or whether that information can be made available to him.

Hon. D. McL. DAVIS (East Yarra) — I thank the minister for his indication that he will seek those background submissions and also seek the department and the minister's response on the matter. I take it as a genuine attempt to undertake those things. I think it is important to record that the opposition was promised some of that information during the briefing stage, but it has not been provided and that makes it difficult to assess the decision-making process of government. An open and transparent government would be prepared to share what should generally be the public submissions which form part of the background to its development of a bill.

The CHAIR — Order! I just need some clarification from Mr Davis. I know he raised some questions on the purposes clause. Does he intend to move his amendment no. 1?

Hon. D. McL. DAVIS (East Yarra) — I move:

1. Clause 1, page 2, lines 3 and 4, omit all words and expressions on these lines.

The mechanism for this has been reasonably well outlined during the discussion. The issue here will test amendments 2, 3, 6 and 7. It is a fair and reasonable test of those clauses. In my earlier contribution I referred to information from the Municipal Association of Victoria and material received from various shires and councils. It is very clear that this simple amendment will improve the operation of the act, and I seek the chamber's support for it. As I said, this amendment is a test for other clauses. I am sure other members of the chamber will also wish to place their views on record.

Hon. W. R. BAXTER (North Eastern) — I simply indicate that I support this amendment which goes to the issue of supplementary valuations. This is a test for the principle amendment which is further down the sheet. I canvassed the issues in my second-reading remarks and I do not intend to repeat them now save to say that I endorse the amendment because I believe it is proper.

The CHAIR — Order! In relation to Mr Davis's amendment no. 1, which is a test for his amendments 2, 3, 6 and 7, which all relate to the matter of certification of supplementary valuations, the question is that the words and expressions proposed to be omitted stand part of the clause.

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

Ayes, 20

Argondizzo, Ms	Madden, Mr
Broad, Ms	Mikakos, Ms
Buckingham, Mrs	Mitchell, Mr
Carbines, Ms	Pullen, Mr
Eren, Mr	Scheffer, Mr
Hilton, Mr	Smith, Mr
Hirsh, Ms (*Teller*)	Somyurek, Mr (*Teller*)
Jennings, Mr	Theophanous, Mr
Lenders, Mr	Thomson, Ms
McQuilten, Mr	Viney, Mr

Noes, 17

Atkinson, Mr	Drum, Mr
Baxter, Mr	Hadden, Ms
Bishop, Mr	Hall, Mr
Bowden, Mr	Koch, Mr
Brideson, Mr (*Teller*)	Lovell, Ms
Coote, Mrs	Rich-Phillips, Mr
Dalla-Riva, Mr (*Teller*)	Stoney, Mr
Davis, Mr D. McL.	Strong, Mr
Davis, Mr P. R.	

Amendment negatived.

Clause agreed to; clauses 2 to 14 agreed to.

Clause 15

Hon. D. McL. DAVIS (East Yarra) — I move:

4. Clause 15, after line 16 insert—

"(b) if a valuation that has appeared in a notice of valuation given under section 15(1)(a) appears in—

(i) a subsequent notice of valuation given by the rating authority that gave the notice under that section; or

(ii) a notice, or subsequent notice, of an assessment of the rate or tax payable in respect of land issued by the rating authority that gave the notice of valuation under that section, or by any other rating authority—

within 2 months of that subsequent notice of valuation or notice, or subsequent notice, of assessment of rate or tax (as the case requires); or".

My amendment 4, which also tests amendment 5, is similar to the amendment mooted by the Honourable Bill Baxter. It seeks to insert a provision in section 18 of the Valuation of Land Act which would allow those in receipt of a land tax assessment to object to the valuation of the land at the time of receipt of that assessment.

This was well canvassed during the second-reading debate. I make the point that it is simply a matter of

fairness and justice that people receiving assessments should have the opportunity to object to matters of fact and matters of valuation underlying those assessments.

There are a whole range of reasons why individuals may not object in the early phase at the time of the first valuation — they may be overseas, they may be sick or they may be people who have poor English and do not fully understand the significance down the track of the valuation and how it will impact on their land tax assessments. I was disappointed to hear Ms Carbines indicate that people had plenty of opportunity to object. That is simply not the fact. The truth of the matter is that across the community wherever I have gone in my electorate or other electorates where I have spoken to people there is great concern and people want to have the opportunity to object at the time when their assessment comes in.

I would like to hear something from the minister about the error rate in land tax objections, such as how many objections are made each year. In the documentation provided to the opposition and at the various briefings there appeared to be some lack of clarity on the precise number of objections that are received each year. I would like to know the number of objections upheld. Maybe the minister could provide the opposition with that information in due course. It could be a strong basis for further changes to the system.

The amendment is fair and just in that individuals should be able to object at the time they receive a land tax assessment, even if that is some way down the track from when the initial valuation of land occurred. It is a matter of justice, and I for one do not understand why this government cannot support that.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I do not have the information the member is seeking immediately in front of me, but I undertake to seek it from the relevant minister in the other place to see if it can be made available to the opposition in relation to those matters.

In relation to the time in which somebody can object, again appreciating what the opposition is trying to do with its amendment, I make clear, as was made clear in the contributions to the second-reading debate of a number of members, the bill has simplified the time for objecting to the two months after notice has been given. The bill removes references to February and March as possible objection periods. That was confusing to the public and is no longer required.

As mentioned before, we believe there is sufficient time for people to object to the valuations, and we have made that point throughout the course of the debate on the bill.

Hon. W. R. BAXTER (North Eastern) — I want to support Mr David Davis's amendment because it is identical to the one that was prepared by The Nationals. I have listened to the government's response both from Ms Carbines during the second-reading debate and from the minister to the committee just now.

I agree that there is opportunity to object when you receive a valuation or receive the municipal valuation notice, and you have two months to do it. No-one is objecting to that, but that seems to me to be no reason whatsoever for debarring people from objecting when they get their land tax notice. It seems to me to be a matter of natural justice that, if a taxation levy is placed upon any individual in this state and they believe that levy has been improperly calculated because the valuation on which it is based is erroneous, there should be an opportunity to object to that valuation, and that is why I am supporting Mr Davis's amendment. I am disappointed that the government has not been able to advance a more cogent reason as to why it cannot support the amendment as well.

Committee divided on amendment:

Ayes, 18

Atkinson, Mr	Drum, Mr
Baxter, Mr	Hadden, Ms
Bishop, Mr	Hall, Mr
Bowden, Mr	Koch, Mr
Brideson, Mr	Lovell, Ms
Coote, Mrs	Rich-Phillips, Mr
Dalla-Riva, Mr	Stoney, Mr
Davis, Mr D. McL (*Teller*).	Strong, Mr
Davis, Mr P. R.	Vogels, Mr (*Teller*)

Noes, 20

Argondizzo, Ms	Madden, Mr
Broad, Ms	Mikakos, Ms
Buckingham, Mrs (*Teller*)	Mitchell, Mr
Carbines, Ms (*Teller*)	Pullen, Mr
Eren, Mr	Scheffer, Mr
Hilton, Mr	Smith, Mr
Hirsh, Ms	Somyurek, Mr
Jennings, Mr	Theophanous, Mr
Lenders, Mr	Thomson, Ms
McQuilten, Mr	Viney, Mr

Amendment negatived.

Clause agreed to; clauses 16 to 20 agreed to.

Reported to house without amendment.

Report adopted.

Third reading

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

That the bill be now read a third time.

In so doing I thank respective members of the chamber for their contributions to the debate.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

FINANCIAL MANAGEMENT (MISCELLANEOUS AMENDMENTS) BILL

Introduction and first reading

Received from Assembly.

Read first time for Mr LENDERS (Minister for Finance) on motion of Hon. J. M. Madden.

ADJOURNMENT

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

That the house do now adjourn.

Ambulance services: LifeFlight helicopter

Hon. J. A. VOGELS (Western) — I raise an issue for the Minister for Health in the other place, the Honourable Bronwyn Pike. It concerns the Royal Children's Hospital emergency helicopter, known as LifeFlight. This helicopter is dedicated to saving children's lives — in many cases the lives of perinatal babies, where time and speciality is of the essence. The LifeFlight helicopter has the space to carry the intensive care equipment required, plus a full specialist medical team that travels with the helicopter. The helicopter is based in Melbourne, close to the Royal Children's Hospital, on stand-by waiting for an emergency call-out, and can be under way with specialists in no time at all.

It only costs $2.4 million to run this service. Charities fund 90 per cent of the cost of running the LifeFlight helicopter and the state government contributes 10 per cent. This fantastic service is about to hit a wall because of funding shortfalls. It has asked the Bracks government for help, and if it does not receive it, it will have to go into recess. This must not be allowed to happen under any circumstances, and the action I seek from the minister is to make sure that enough money is made available to top up the charitable contributions to keep LifeFlight in the air.

On Monday morning I was listening to a lady on the Jon Faine program who said that she had to be raced to hospital suddenly because her baby was being born more than 10 weeks early. She said that if the LifeFlight helicopter had not turned up in Geelong with a specialist on board to stabilise the baby, who was the size of a pencil, and then bring it to the Royal Children's Hospital, her baby would have been lost. I understand something like 45 similar cases occurred last year.

At the moment the government is employing the use of a private helicopter, which is not instrument rated, meaning it cannot fly at night or in bad weather — and babies do not come only during the middle of the day when the sky is blue! — and is not fitted out for neonatal care. This is just not good enough. Our sick babies deserve the best chance of survival, and it beggars belief that a shortfall of less than $500 000 would put this service at risk.

The action I seek is for the minister to make sure that the LifeFlight service does not go out of action. Something like $500 000 is a pittance. There would be loud plaudits from all parts of the state, including from the opposition and anybody else concerned, if the minister made this money available.

Disability services: educational needs

Hon. P. R. HALL (Gippsland) — Tonight I wish to raise a matter for the attention of the Minister for Education and Training in the other place. It concerns support for students with disabilities. The level of resources provided for students with disabilities is determined by a mechanism called the educational needs questionnaire. This questionnaire has a number of categories, including mobility, motor skills, communication, vision and hearing, and the like, and it also includes challenging behaviour and safety.

I want to look at a couple of aspects of the latter two categories: challenging behaviour and safety. The highest level based on the criteria is 'challenging (excess) behaviour', which is level 4. That level indicates that a person is unable to function in almost all areas and needs supervision to prevent injury to self or others. The questionnaire describes by way of

example the type of person who would fit into that category. It states:

> The student is unable to function in almost all school activities without constant supervision to prevent injury to self or others. The student requires an individually tailored fully supported program at all times.

The highest level under the category of 'safety' means that a person is not able to operate safely in school environments without intensive supervision. The description given of such student behaviour is:

> The student cannot operate in the classroom and the playground unless constant supervision is provided.

On reading those two categories one would have thought that if either of those boxes were ticked, it would be automatic that the student would receive the full-time aid and assistance they require given that it states that persons in those categories need full-time supervision. That is not the case. You can have a student who fits within both of the those categories but who is not given full-time aid based on the assessment criteria because the student has scored well on some of the other categories, such as mobility, motor skills, vision or hearing, and an assessment is made on the average score across of all of the different categories.

I know of some examples of students in East Gippsland schools who fit within those categories but are not receiving full-time aid. For example, a student who attempted to self-harm and assaulted others three times per week on average, requiring police and ambulance officers to come to the school and take them away, still does not qualify for full-time aid. That is absolutely disgraceful.

The action I am seeking in respect of this matter is that the minister amend the educational needs questionnaire so that children who score the maximum in the areas of 'challenging (excess) behaviour' and 'safety' be immediately recognised as requiring a minimum of level 5 support funding regardless of the scores in other areas, which are largely irrelevant and should not impact on the overall score.

Woods Point Road, Kevington: upgrade

Hon. E. G. STONEY (Central Highlands) — I raise a matter for the Minister for Transport regarding a 1.5-kilometre section of gravel road between two sealed sections of the Woods Point Road near Kevington.

I travelled along that road last weekend and noticed it was very dangerous and very busy. I have a letter to VicRoads from Irene Poole of Kevington referring to the dangers. It states:

> There have been a lot of near misses on both corners of the 1½ kilometres when it's dry. The dust after the third vehicle makes the corner blind. It's only a matter of time before we have a bad accident happen. In the wet it is very slippery. Do you have to keep putting off the sealing of this section or wait to explain to some poor accident victim's family why it hasn't been done?

I have another letter addressed to me from Mrs Jean Morfew, also of Kevington. It says:

> This unsealed section of road is a very dangerous section — a section we have been told will not be sealed until there is a fatality. What price is life?

She then goes on to talk about how much traffic there is on the road on weekends when campers, hunters and fishermen visit this beautiful part of Victoria. It says:

> About twice a year the road is graded as the potholes and corrugation make it almost impossible to drive on but this only lasts a few days and we are back to the same bad condition. In the summer the dust from the road makes driving dangerous and also makes living close to the road a nightmare. Health and cars both suffer.

I ask the minister to call for a report on the dangers presented by this section of the road with a view to sealing the road.

Burwood Highway–McMahons Road, Ferntree Gully: traffic lights

Hon. B. N. ATKINSON (Koonung) — I wish to raise a matter with the Minister for Transport in another place. It concerns a need for traffic lights at the intersection of Burwood Highway and McMahons Road in Ferntree Gully. Does the minister have any idea what I am talking about?

Mr Gavin Jennings interjected.

Hon. B. N. ATKINSON — I am talking about traffic lights at the corner of McMahons Road and Burwood Highway — I thank the minister for his attention! This is a significant intersection in terms of local traffic patterns. Like the road matter raised by my colleague the Honourable Graeme Stoney, this is an issue of great concern to the community given the number of accidents and near misses at that intersection.

There are significant concerns about road traffic patterns and behaviours right throughout the Ferntree Gully part of my electorate. Roads such as Kelletts Road, Napoleon Road and Wellington Road near Lysterfield all carry very significant levels of traffic. Whilst there has been some government funding for upgrades of some roads, the reality is that the Knox City Council's petitions and indeed the submissions

made by many residents of the Ferntree Gully electorate, which forms part of Koonung Province, asking for funding for improvements to the roads have gone unanswered by the government.

I attended a number of meetings with the Liberal Party candidate for Ferntree Gully, a fellow by the name of Nick Wakeling. He is an outstanding candidate for the seat of Ferntree Gully. He and I have received a large number of representations about problems with roads in the Ferntree Gully electorate. I might say it has been suggested to us that Kelletts Road is certainly one of those roads that is well overdue for an upgrade.

But, as I said, the issue that residents have raised with both Nick and me more recently is the McMahons Road and Burwood Highway intersection, which is in a very busy traffic area; it is an area where a retail development generates a lot of traffic in the precinct. For the sake of safety and certainly for improved traffic management in this area I urge the minister to fund the upgrade of this road at the earliest opportunity.

Planning: Crib Point land

Hon. R. H. BOWDEN (South Eastern) — I seek the assistance of the Minister for Planning in the other place. I was quite concerned to see a newspaper article on page 3 of the *Hastings Independent* of 25 April headed 'Port land release aim'. It refers to a large area of land that most honourable members will know as the old BP refinery site on Western Port near Hastings. The area of land is large and close to the town of Crib Point. The difficulty is that this particular land has long been used as an essential facility for this state because it has the capability for large oil and petrol tankers to come in from overseas and pump oil for refining into storage tanks and then through a pipeline that goes underground, including under Port Phillip Bay, to Altona and even as far as Geelong. It is an important part of our infrastructure. These several hundred acres of relatively flat land also provide options for flexibility in planning for the installation of a future major port facility at Western Port. There is a lot of debate about whether that facility will be in the northern end or the southern end and about the exact footprint of the future port of Hastings, but the present state government and the opposition are inclined to support the installation of a major port in the Western Port area.

The difficulty lies in the truth of this saying: they are not making any more land. If this land is rezoned from its present port-related use to housing, a proposal which is receiving some degree of sympathy from the Mornington Peninsula Shire Council, this irreplaceable land which has a close-in deep-water frontage, will be irretrievably lost. It does cut off options. I inform honourable members that I am extremely concerned about it. I strongly object to any rezoning proposal which I respectfully suggest to honourable members would not be in the interests of my constituents, my seat or the state. Therefore I ask that the Minister for Planning clearly reject any proposal to rezone this land for housing.

Ambulance services: Shepparton

Hon. W. A. LOVELL (North Eastern) — I raise for the attention of the Minister for Health in the other place the critical shortage of paramedics based at the Shepparton ambulance station. I have been contacted by Pauline Pritchett, a constituent in Shepparton, whose mother, June Scandolara, had a severe middle-ear infection that caused severe vomiting and the inability to walk. She was also in severe pain. June is 78 years of age and lives in Congupna. Pauline rang 000 at 11.00 p.m. to get an ambulance for her mother. She was told by the telephone operator that none were available, that it was likely to be an hour before one would be free, and that if there were a more serious emergency they would be moved down the list, so she tried to get her mother to the hospital on her own. She put her in the car and drove her to the hospital, but it was very difficult due to her mother's age and inability to walk. June was absolutely terrified.

The telephone operator was very sympathetic towards Pauline, but she said there was nothing she could do because there just was not enough staff. June had to stay in the emergency waiting room for a considerable period of time, something which would not have happened if June had been taken in by the paramedics, as they would have taken her straight into the emergency room. This was particularly degrading for June. She was in a very distressed condition and was suffering from severe vomiting. It was not a very pleasant place for her to be, and it was very embarrassing for her. Pauline is very angry that this happened to her mother, and I do not blame her. She is wondering what would happen if someone were having a heart attack or something equally serious.

The minister is well aware of the shortages at the Shepparton ambulance station. We are in desperate need of additional crews for both the day and night shifts. This issue has been raised with the minister on many occasions. She was certainly made aware of it during a visit to the ambulance station in the middle of last year when paramedics staged a protest by not attending her official visit and instead placed a placard on the fence with a to-do list for her.

I ask the minister to immediately address the shortage of rostered crews on both day and night shifts at the Shepparton ambulance station, because this issue is placing our community at risk.

Responses

Mr GAVIN JENNINGS (Minister for Aged Care) — I preface my contribution by saying that in the appropriate manner I will draw to the attention of my colleagues the matters that I refer to that have been raised by honourable members.

Mr Vogels raised a matter for the attention of the Minister for Health in the other place relating to the LifeFlight helicopter service that operates in south-west Victoria and requesting ongoing funding for that service in the future.

Mr Hall raised a matter of the attention of the Minister for Education and Training in the other place, but the issue he raised may well be a matter for the Minister for Education Services, who is also in the other place. It may be that is the appropriate minister to deal with matters concerning the support services to students who require special assistance and the scoring system that relates to assessing their eligibility to receive such services.

Hon. P. R. Hall — If it is, could you direct it to her?

Mr GAVIN JENNINGS — Yes, indeed.

Mr Stoney raised a matter for the attention of the Minister for Transport in the other place seeking his review to ensure that appropriate road conditions within his electorate are addressed, and in particular asked for a road to be sealed.

Mr Atkinson raised a matter for the Minister for Transport which sounded to me much like an ad for the Liberal candidate for the Legislative Assembly seat of Ferntree Gully. In fact the longer Mr Atkinson went on, the more he wanted to draw my attention to his contribution to make sure that I knew the name of the Liberal Party candidate for Ferntree Gully.

Hon. B. N. Atkinson interjected.

Mr GAVIN JENNINGS — I assure you that that I know the candidate's name, and I have recorded the name. I have probably not recorded it as many times as Mr Atkinson mentioned the name, but I did record it.

An honourable member — What is the name?

Mr GAVIN JENNINGS — His initials may be N.W. — a fact I particularly retained from Mr Atkinson's contribution. That was the central purpose of his intervention far beyond talking about road conditions in Ferntree Gully and traffic lights on relation to McMahons Road in particular.

The Honourable Ron Bowden raised a matter for the attention of the Minister for Planning in the other place. He tried to encourage the minister to make sure we account for infrastructure planning and industrial needs in his electorate. Mr Bowden is concerned that the Minister for Planning may make a decision to rezone land for housing and has urged him not to.

The Honourable Wendy Lovell raised a matter for the attention of the Minister for Health in the other place, drawing her attention to the ongoing need for the provision of paramedic support for the Rural Ambulance Victoria in Shepparton and in particular the allocation of paramedics across the day and night shifts. She asked the minister to assist by increasing the number of rostered crews.

Motion agreed to.

House adjourned 6.46 p.m.