

**PARLIAMENT OF VICTORIA**

**PARLIAMENTARY DEBATES  
(HANSARD)**

**LEGISLATIVE COUNCIL  
FIFTY-FIFTH PARLIAMENT  
FIRST SESSION**

**Wednesday, 5 April 2006**

**(Extract from book 4)**

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### Joint committees

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**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.

**Education and Training Committee** — (*Council*): The Honourables H. E. Buckingham and P. R. Hall.  
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**Environment and Natural Resources Committee** — (*Council*): The Honourables Andrea Coote, D. K. Drum, J. G. Hilton and W. A. Lovell. (*Assembly*): Ms Duncan, Ms Lindell and Mr Seitz.

**Family and Community Development Committee** — (*Council*): The Hon. D. McL. Davis and Mr Smith.  
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**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.

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(*Assembly*): Ms D'Ambrosio, Mr Jasper, Mr Leighton, Mr Lockwood, Mr McIntosh, Mr Perera and Mr Thompson.

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*Parliamentary Services* — Secretary: Dr S. O'Kane

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**FIFTY-FIFTH PARLIAMENT — FIRST SESSION**

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Hirsh, Hon. Carolyn Dorothy <sup>1</sup>	Silvan	ALP	Vogels, Hon. John Adrian	Western	LP

<sup>1</sup> Ind from 17 September 2004  
ALP from 10 November 2005

<sup>2</sup> Ind from 7 April 2005

<sup>3</sup> Ind Lib from 30 November 2005



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**Wednesday, 5 April 2006**

The **PRESIDENT (Hon. M. M. Gould)** took the chair at 9.33 a.m. and read the prayer.

**DRUGS, POISONS AND CONTROLLED  
SUBSTANCES (AGED CARE SERVICES)  
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 Water Authority regions, in view of current scientific doubts regarding its safety (298 signatures).

Laid on table.

**Haileybury College: access**

Mr **PULLEN** (Higinbotham) presented petition from certain citizens of Victoria requesting the closure of all residential street access to Haileybury College within the residential zoned Castlefield precinct and that all access to Haileybury College be via the main entrance on South Road (257 signatures).

Laid on table.

**PAPERS**

Laid on table by Clerk:

Lake Mountain Alpine Resort Management Board — Report for the year ended 31 October 2005.

Statutory Rules under the following Acts of Parliament:

Credit (Administration) Act 1984 — No. 32.

Electricity Safety Act 1998 — No. 34.

Fisheries Act 1995 — No. 28.

Magistrates' Court Act 1989 — Nos. 30 and 31.

Subordinate Legislation Act 1994 — Nos. 33 and 35.

Trustee Companies Act 1984 — No. 36.

Working With Children Act 2005 — No. 29.

Subordinate Legislation Act 1994 — Ministers' exemption certificates under section 9(6) in respect of Statutory Rule Nos. 28 and 36.

Victorian Law Reform Commission — Report on Residential Tenancy Databases.

**MEMBERS STATEMENTS**

**Victorian Government Purchasing Board:  
seminars**

**Hon. W. A. LOVELL** (North Eastern) — Today the *Shepparton News* carries an article headed 'Get slice of government purchasing' that says:

Winning government business is a difficult task for most small to medium-sized enterprises, but those in Shepparton are about to be given a helping hand.

Today, a seminar will take place in the city to provide advice on winning government business.

The seminar is hosted by the Procurement and Contracting Centre for Education and Research (PACCER), which is an initiative of the Victorian Government Purchasing Board. However, the government will not only be given a helping hand but will also be putting its hand out.

It is using the lure of gaining government business to raise additional revenue from small businesses. The cost of attending this seminar in Shepparton is \$80. A visit to the PACCER web site will tell you that there are 10 seminars being held around the state. The cost to attend a seminar in metropolitan Melbourne is \$100, the cost in regional centres is \$80. This is just another revenue-raising exercise by the Bracks government — there is no guarantee that any of the businesses attending these seminars will gain any government business.

**Deakin University: medical school**

**Ms CARBINES** (Geelong) — This morning I wish to support the bid by Deakin University to secure a third medical school for Victoria and to have it located in Geelong in the south-west. There is a chronic shortage of GPs in Victoria and particularly across our region. We need at least another 25 GPs in Geelong and Warrnambool will need another 15 GPs over the next

decade. The problem in Victoria is that the demand for GPs clearly exceeds supply.

Deakin University, in conjunction with Barwon Health and the Warrnambool hospital, is proposing to establish Victoria's much-needed third medical school, focusing on rural and regional medical practice. It would comprise a graduate-entry program for mature-age students with strong links to regional and rural communities and focus on the skills needed in country practices, such as emergency and procedural skills, chronic disease prevention, and management and teamwork.

Last week the Premier announced a \$30 million program to support a new medical school facility in Victoria. This is welcome news indeed, and Deakin University is ready to access this funding to provide the necessary facility to house a new medical school. It is now time for the Howard government to play its part in ensuring that Victoria can train enough GPs to address the crisis in rural and regional health in our state. New South Wales has seven medical schools and Queensland four yet Victoria has only two. We have 25 per cent of Australia's population but only 20 per cent of Australia's medical school places.

I call on the federal Minister for Health and Ageing, Tony Abbott, to take the necessary steps to address the critical shortage of general practitioners in Geelong, Warrnambool and the south-west region by allowing Deakin University to establish — —

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

### **Southern Rocycling: management practices**

**Hon. B. N. ATKINSON** (Koonung) — I hope the ministers for planning and environment in another place will heed the request of the Heatherdale Road action group to look into the operations of Southern Rocycling, a business that operates on the Ringwood side of Heatherdale Road within the municipality of Maroondah. There has been a long-running problem with this business and the amenity problems it causes for the neighbourhood. There are problems with noise, dust, traffic and the general management of the site. In recent weeks significant concerns have been raised by residents about chemicals leaching into the local creek. Last week residents were put to some distress by a fire that occurred at the site.

They have been pressing for action by the municipality, government agencies and indeed by the government itself for more than two years. To date they have

received very little comfort from any of the agencies which have investigated this business, despite the fact that the business has been convicted over problems associated with its managing the site against the permits it has. I hope the Heatherdale Road action group is now successful in getting both the ministers — —

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

### **Melbourne Mobility Centre**

**Ms ROMANES** (Melbourne) — A very important recent addition to Melbourne's facilities is the new Melbourne Mobility Centre at Federation Square. It is one of the legacies of the Manchester Commonwealth Games because the City of Melbourne delegation brought the idea back from there. I would like to congratulate and thank the City of Melbourne for getting the Melbourne Mobility Centre ready in time for the 2006 Commonwealth Games, and through it making the city more inclusive for and accessible to visitors with disabilities.

The centre provides equipment for hire including motorised and manual wheelchairs, scooters, walking frames, crutches and canes for those who are mobility impaired. It has two fully accessible toilets, is in close proximity to available accessible car parking, provides information for people with mobility and sensory disabilities, information about city attractions and events, telephone typewriter and accessible web access, scooter battery recharge facilities, accessible tea, coffee and refreshments, and help from a great team of volunteers from the organisation Melbourne Cares.

I also acknowledge Kate Redwood, a former councillor, for her role in driving this project in its initial stages, and Martin Fathers from the Melbourne Disability Advice Committee who has played a key role in the design of the centre.

### **Youth: Rodney electorate**

**Hon. D. K. DRUM** (North Western) — On Monday I had the opportunity, along with the member for Rodney in the other place, Noel Maughan, to visit youth groups around his electorate, in Echuca, Stanhope, Kyabram and Rushworth. We met a range of people and visited schools in Echuca. Some issues that concerned us there were the prevalence of smoking in the 16 to 18 years age group, especially the girls. We are not getting our message across.

At Kyabram we went to the community centre and met a chap by the name of Tom Ellis who is working with about 15 kids who have previously fallen through the

cracks in the education system. He has re-engaged them in the learning process, and brought them back to do some projects that they are extremely passionate about. We went on to Rushworth and met with more school leaders there. We spoke about some of the challenges facing public transport and the inability of the young people there to access statewide musical events, concerts and the like. We certainly need to do some work there.

At Stanhope we looked at the rural transaction centre and met with a group of youths who are trying to turn that into a youth centre with pool tables and computers and so forth. Any way we can get funding for that would be beneficial. We went back to Echuca and spoke to some youths there who are trying to highlight the advantages of staying in the regions as opposed to having the single goal of pursuing academic qualifications and heading off to the universities.

### **Commonwealth Games: Cypriot athletes**

**Hon. T. C. THEOPHANOUS** (Minister for Energy Industries) — It was an honour for me to welcome the Cypriot team to the Commonwealth Games, along with other Victorians of Cypriot background, Andrew Demetriou, head of the Australian Football League, and Peter Abraam, head of major events. I believe the Cypriot team was the best-performing small nation at the Commonwealth Games and managed to improve on its four medals at Manchester by achieving 3 gold, 1 silver and 2 bronze medals.

Gold medallists Antonis Nicolaidis and George Achilleos won the men's skeet pairs final; Andri Eleutheriou won the women's skeet final; and George Achilleos won the men's skeet final. Andri Eleutheriou and Louiza Theophanous won the women's skeet pairs final.

**Hon. R. G. Mitchell** — Any relation?

**Hon. T. C. THEOPHANOUS** — No relation, but there are plenty of Theophanouses in Cyprus, I can assure you.

Bronze medals were won by Kyriakos Ioannou in the men's high jump, and Herodotos Giorgallas in artistic gymnastics. Cyprus was represented by a team of 43 athletes here in Melbourne, very strongly supported by the 60 000 or more Cypriots in Victoria.

### **The Nationals: 90th anniversary**

**Hon. W. R. BAXTER** (North Eastern) — I want to draw to the attention of the house that in Bendigo, commencing tomorrow evening and extending over the

weekend, will be the 90th anniversary conference of The Nationals. This is a significant event in anyone's terms for a political party to be so long-lived in this country. It is particularly significant for myself because the first conference of the party which I attended, when it was known as the Country Party, was in 1965 in Bendigo, so it is returning to where I started in the party. There have been 42 conferences intervening and I have been a delegate and attendee at 40 of the 42. I consider it a great honour that I have been given that tremendous opportunity to participate in grassroots democracy, because that is what The Nationals are all about. We have our conferences right throughout country Victoria, from Bairnsdale in the east to Cowes on Phillip Island in the south up to Mildura in the north-west and down to Portland, Warrnambool and Hamilton in the Western District.

We bring our party to the people of country Victoria, very much unlike some other parties and we are not faction ridden. We do not impose unsatisfactory candidates on country regions as we have seen factions in the Labor Party do in recent times, imposing on the northern region candidates who have absolutely no empathy with country people whatsoever. I am very proud that The Nationals represent country Victoria.

### **Shepparton: Albanian community**

**Hon. KAYE DARVENIZA** (Melbourne West) — I want to let the chamber know how delighted I was to attend two very significant functions in Shepparton last month, on Friday, 17 March. The first one was at the Albanian mosque. The purpose of the event was twofold and included recognition of the contribution of the Albanian settlers who built the mosque. The construction of the mosque began in 1958, and it was completed in 1960. I think it was one of the first mosques to be built in Victoria and may in fact have even been the first one built in regional Victoria. There was also the unveiling of a plaque that acknowledges the contribution that is being made by the Albanian community. That plaque also featured several lines of *Advance Australia Fair*.

The Albanian community was very keen to thank Australians for making them feel very welcome and part of the Australian community — that is certainly the case up there in the Goulburn Valley. The community has put up a flagpole and flies the Australian flag. I want to congratulate Mr Dinny Adem, the president of the Albanian Muslim Society of Shepparton. My parliamentary colleague Jeanette Powell, the member for Shepparton in the other place, was also present at this very important occasion.

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

### **Ballarat: mayor**

**Ms HADDEN** (Ballarat) — Shame on Ballarat City Council mayor, Cr David Vendy, for his recent interference with the planning panel process established by the planning minister, Rob Hulls, to hear submissions on Ballarat planning scheme amendment C87 and rezoning of the site from rural to a special use zone. Ballarat City Council's proposal is to relocate the Ballarat saleyards out to Learmonth and build new saleyards, a halal abattoir, an animal rendering plant, a grain handling facility and truck wash et cetera above the historic Learmonth township's pure water supply where Coghills Creek starts and within the main recharge area of the Ascot aquifer.

The planning panel had been hearing submissions since Monday, 6 March, and the venue — the private Ballarat Yacht Club on Wendouree Parade overlooking the nearly-dry Lake Wendouree — had been appointed by Ballarat City Council. The community submissions were listed for 27 and 28 March. On Monday, 27 March, during the luncheon break at the planning panel venue David Vendy allegedly physically assaulted, swore at and threatened a community submitter, Mr Frank Campbell, in the presence of at least six witnesses.

Mr Campbell has made a formal complaint to the Ballarat criminal investigation unit and is waiting for police charges to be laid against David Vendy. However, some senior Ballarat police officers have since allegedly attempted to thwart the police investigation by contacting some community submitters and warning them off proceeding with the police prosecution against David Vendy, saying it would go against them when the council determines the planning panel's decision. I call on the Minister for Planning in the other place, Rob Hulls, to recall the planning panel immediately and undertake an urgent investigation into David Vendy's disgraceful conduct.

### **Commonwealth Games: merchandise**

**Hon. C. D. HIRSH** (Silvan) — In rising today I want to strongly refute the assertion made yesterday by Mr Dalla-Riva that goods produced for the Commonwealth Games were all made in China. This is not the case, and I strongly refute this assertion.

For a start, the gold medals were made in Ballarat with Ballarat gold. The shirts and tops — I bought a couple for my daughters and looked at them a lot — were all

Australian made. If you look at the back of the Commonwealth Games pins — I am wearing one — you will see that they say 'Made in Australia'. These are just a few bits around me, and they were made in Australia. You can go through the other materials that were produced — I have looked at them — and find that many of them are in fact Australian made. The majority of the products I saw when I looked in the merchandising shop at the games were made in Australia. It is very clearly written on the drink bottles — 'Made in Australia'. I think we need to recall that the games provided a very good boost to the economy in many different ways, including in the manufacture of many of the products that were used for the games.

### **Medical research: Healthy Futures**

**Mr VINEY** (Chelsea) — I rise to acknowledge the fantastic statement that was made yesterday by the Premier, the Minister for Innovation and the Minister for Health, all in the other house, known as the 'life sciences statement', which announced a further \$230 million invested in biotechnology and the innovation economy in Victoria. It lifts this government's investment in the innovation economy to \$1.8 billion since it was elected in 1999, by far and away the largest investment in the innovation economy of any Australian state government.

There were some great projects announced yesterday, including confirmation of the expansion of the Walter and Eliza Hall Institute and the establishment of the Australian Centre for Neuroscience and Mental Health Research, bringing together some of the great, leading research institutes such as the Howard Florey Institute, the Mental Health Research Institute of Victoria, the Brain Research Institute and the National Stroke Research Institute to form one of the largest institutes of the neurosciences in Australia. There was also the announcement of \$30 million being made available for the capital investment required for the additional medical places in Victoria that are so desperately needed. We would like to see the federal government come on board with that.

### **David Hicks**

**Hon. J. G. HILTON** (Western Port) — This morning I wish to make a statement on the predicament of David Hicks, who continues to languish in Guantanamo Bay with no end in sight. Mr Hicks has been detained for over four and a half years, and the effect on his emotional and mental state can only be imagined. The legal justification for holding enemy combatants without recourse to the traditional United

States legal system is now being challenged in the US courts, delaying once again Mr Hicks's appearance before a military tribunal, the legal standing of which is also being questioned.

The total inaction of the federal government in relation to protecting Mr Hicks — which is surely one of the main responsibilities of a government to its citizens — is in stark contrast to the position of the UK government, which condemns the military tribunal process and has obtained the release into its custody of all its citizens who were detained in Guantanamo Bay.

David Hicks's legal team is now trying to secure British citizenship for him so he can have some protection as a British citizen. The Australian government puts its fawning subservience to the United States ahead of its responsibility to its citizens. This is a total dereliction of a government's duty of care.

## HAZARDOUS WASTE: NOWINGI

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

That this house condemns the government's plan to site a toxic waste dump at Hattah-Nowingi in the Sunraysia district and particularly expresses its concern that the government's plan will allow —

- (1) the siting of the toxic waste dump between Hattah Lakes national park and Murray-Sunset National Park and near the Ramsar-listed Hattah Lakes;
- (2) development of a toxic waste dump near the Sunraysia food bowl with its rich agricultural, horticultural and viticultural industries, thereby placing them at risk;
- (3) a potentially devastating impact on the Murray River, Australia's largest river, which is located just 15 kilometres away from the proposed toxic waste dump site;
- (4) the exposure of communities along the Calder corridor and alternative routes to the danger inherent in transporting loads of toxic waste over 500 kilometres from Melbourne to Hattah-Nowingi; and
- (5) the development of this toxic waste dump without satisfactory investigation of alternatives including programs to reduce the quantities of industrial waste;

and calls on the government to abandon its flawed environmental effects process and indicate to the Victorian community that the planned toxic waste dump at Hattah-Nowingi will not proceed.

I move this motion believing this is a very important issue for the Victorian community at this time. Certainly many across country Victoria have expressed their views on this over the recent period. The effect this is having in country Victoria cannot be

overestimated. I want to make the preliminary point that the government has form, as was put to me on radio this morning, on this issue of toxic waste in the sense that over the last few years three other sites were identified elsewhere in country Victoria by this government and it was only after a significant and exhausting community campaign that the government backed off. It was after a campaign leading to three other sites being ruled out that the Bracks government came up with this plan to site a toxic waste dump at Hattah-Nowingi. It is important in this context to understand why it may have made that decision, and it is important to understand too why the government may have not investigated other alternatives as thoroughly as it could have.

Many in the community have pointed out correctly, and I believe very importantly, that the government has not done what it needs to do in terms of reducing the quantity of industrial waste. That seems to me to be the primary focus where government activity and energy should be concentrated. The government needs to take those steps. Whilst some of the government's documents talk about reducing the quantity of industrial waste, they do not in my view make this the primary objective. There still seems to me to be an intention to place this Hattah-Nowingi site directly at the centre of government policy. This toxic dump is to be located near Mildura in the Sunraysia district.

It is important to understand the location that is proposed by the Bracks government for the toxic waste dump at Hattah-Nowingi. It is to be sited between the Murray-Sunset National Park and the Hattah-Kulkyne National Park. The siting, nestled between two national parks, is entirely unsatisfactory. The government seems to have not understood the need to preserve our local environment and the fact that the land between those two national parks is not only of great significance to the community but also of great significance to protecting biodiversity and a number of key fauna and flora.

I particularly draw the house's attention to the need to protect the food bowl around Mildura and the Sunraysia district, and indeed into New South Wales and South Australia as well. I was proud recently to join my Liberal colleagues from South Australia at the proposed site of the dump at Hattah-Nowingi, along with the Honourable Wendy Lovell, my colleague in this chamber, and Donna Petrovich, a candidate for the northern region for the Liberal Party.

I was also saddened to see the results of the South Australian election. Whilst the South Australian government has made its views on this toxic dump

known, I am concerned that it will not necessarily prosecute the defence of those areas in South Australia as vigorously as a Liberal government in South Australia would have. The communities in the Riverland may face a real challenge. The proximity of this proposed site to the Murray River, Australia's premier river in many respects, is greatly concerning. Just 15 kilometres away from a river is too close. It is too close if one looks at and discusses with locals issues around the watertable; it is too close when one discusses the prospects over the longer haul.

The importance of that river should not be underestimated. Not only does it supply the agricultural and horticultural districts in Victoria, New South Wales and South Australia but it also supplies town water. You cannot underestimate the importance of any damage to the quality of the water that would flow. Adelaide receives much of its water from the Murray, and I can understand the concerns of people in South Australia at the siting of a toxic dump close to the Murray River.

Further, the concern that many in South Australia feel is that because they are downstream they are out of mind, and the Victorian government may not pay the level of heed that it should to the issues surrounding the safety of that water and the quality of Murray River water in the very long haul. Remember that this toxic dump is there for the long haul. This is not a short-term process. There is no indication that this toxic dump, once built and once filled, will not remain in the area for a very long time. My concern is fundamentally that the government has not thought through these very long-term implications.

It has been put to me by people that I have spoken to in and around the agricultural and horticultural industries at Mildura and the surrounding district that there is a risk that in a marketing sense their products will be exposed to attacks by competitors both here and overseas. I think that is a realistic fear. Whatever the realities of the toxic dump, there is a risk that the dump will expose our major export industries from these regions to attack.

I now want to indicate the impacts that some of these issues will have. I am very concerned about this economic impact. The case has been put by a number of groups, and I want to quote from some. There have been more than 1700 submissions to the environment effects statement process, and further contacts are still being made with the current panel process, many of those having gone to the economic risk that is indicated by the government's proposals for the toxic dump. I will quote in particular from a South Australian

government submission which made some very clear points about the economic threat. It singles out the threat to the neighbouring region — South Australia's Riverland production area — and says:

Hence it is not unreasonable for the agricultural industries of the Sunraysia and Riverland to fear for their reputations should the Victorian government persist in its attempts to site a toxic waste dump in such close proximity to horticultural production areas.

Given the South Australian community and economy's reliance on the River Murray this state cannot support the establishment of a facility that poses a risk to the River Murray. The potential threat to the water supply of major metropolitan and rural regions and the threat to regional economies posed by water contamination are too great.

It is interesting that the Victorian Farmers Federation (VFF) submission made a number of points regarding the significance of these agricultural and horticultural areas. It says:

Victorian farmers represent 25 per cent of the nation's farms; produce 30 per cent of the nation's agricultural product, all from just 3 per cent of Australia's available agricultural land. Agriculture in Victoria represents one-third of the state's exports.

The Victorian Farmers Federation made the point that agriculture and horticulture is the lifeblood of the Sunraysia region — and I am paraphrasing in saying that. Persuasively, I thought the VFF saw a very clear flaw in the environment effects statement arguments about risk to markets.

The Victorian Farmers Federation said it believed:

... that this has ignored one crucial element of these highly-competitive markets. Competitors, especially in overseas markets, watch events in other countries quite closely for the purposes of finding a competitive edge. There is a risk that the presence of the long-term containment facility could be used to discredit, whether justified or not, the 'cleanness' of produce in the area. This would of course be more of a problem if a contamination event actually occurred.

The VFF went on to say that it was:

... not convinced that domestic markets are as insulated from consumer perception as claimed and there is a growing trend towards niche markets and regional branding.

These are important descriptions of the problem of siting the facility near an important agricultural and horticultural district like the Sunraysia and Riverland areas, and the government needs to reconsider on those matters alone. Whether one starts to think about the issues of biodiversity or the issues around the national parks — and I will come to all those matters shortly — on those matters of agricultural and horticultural

production alone the government has chosen the wrong site.

The South Australian government's submission, as I said, is a very important one, and it made a number of important comments about waste disposal alternatives. Another key submission I will quote from is the Western Region Environment Centre's submission. It makes the point that the environment effects statement (EES) failed to:

... show the need for such a facility and the confusing data presented by the EES documentation re quantities of waste.

The EES was described as 'seriously misleading in its assessment of the quantities of prescribed industrial waste requiring long-term containment'. This is an absolutely critical point. There is serious dispute about matters regarding the long-term volume of industrial waste that will need containment. These matters need to be sorted out before the government goes ahead with any facility such as that at Hattah-Nowingi.

As I said, in its submission the South Australian government indicated that it was prepared to work with the Victorian government to find alternative approaches to waste management. It recommended:

... that rather than building the proposed ... dump at Nowingi the Victorian government consider alternate waste disposal options.

It went on to say:

As a range of options other than a long-term containment facility exist, it is imperative that the Victorian government explore these options before investing in an expensive and potentially hazardous long-term containment facility. It is highly likely that if the Victorian government were to invest comparable funds in alternate processing and/or recycling options it would result in a more sustainable solution to the waste issue.

The South Australian government went on to recommend instead:

... that the Victorian government invest in alternate technologies to reprocess/recycle category B wastes in order to provide a long-term sustainable solution to the generation of wastes.

The Victorian government should be listening to the South Australian government. Whatever the politics of South Australia, this is a serious submission that cannot be dismissed by the Victorian government. It should be prepared to work constructively with the South Australian government, and indeed other governments, to take these sorts of steps.

I am not quite sure, and I have reflected on this at great length, why the state government is so obsessed, so

determined to press forward with this site at Hattah-Nowingi. I can only conclude, in the absence of any other feasible explanation for why it is so rigidly and consistently pushing for this site, that it is a political issue. I believe it thinks it is located in an area of the state that has not returned Labor members in the past — it has returned members of The Nationals, the Liberal Party or Independents but not, certainly in my memory, a Labor Party member. I can only conclude that the government's determination to place the site in this location at Hattah-Nowingi is a politically driven decision.

I think that is reprehensible and it will have serious repercussions. The government has misjudged this. It has not understood the broader impact other than simply the proximity of the Murray River to Mildura, Sunraysia, South Australia and New South Wales. The concerns will be felt more broadly across the community, including along the Calder corridor, and I know my colleague Ms Lovell will have a great deal to say about that corridor shortly. It may be that the government has simply underestimated the concern that people feel on a number of environmental issues, too, and I will come to those more fully in my contribution.

I find a number of other things strange about the government's approach here. The submission made by the Department of Sustainability and Environment is, in my view, a wholly inadequate submission in the sense that it is a public document putting the department's position in respect of this toxic waste dump. I invite people to read the DSE's submission, as I have. They will be surprised by its brevity and by the fact that many issues are not seriously grappled with — for example, I find the failure of Parks Victoria to provide a submission given the proximity to the two national parks to be quite extraordinary. I believe it is a serious hole in the process. In its foreword the DSE's submission says that information is provided on behalf of Parks Victoria which is responsible for managing protected areas including the Hattah-Kulkyne and Murray-Sunset national parks and the Annuello Flora and Fauna Reserve. I cannot believe that a simple reference like that and a small section in the DSE's submission is satisfactory given the complexity of the issues that surround biodiversity in that region of the state.

It is worthwhile reflecting a bit on the history of those national parks, and I will do that in a moment. There needs to be some balance. Parks Victoria officers need to present themselves to the planning panel process. Whilst I mention the planning panel process I should also make some comments about it. There is unanimity of view on this side of the chamber. Mr Bishop raised a

number of points in the chamber recently about the planning panel. Ms Lovell has raised issues as well, and she has certainly made a number of comments publicly about the planning panel. There is concern on one level about the appointment of Professor Bill Russell as the chair of that planning panel; there is concern about the appointment process by which he mysteriously appeared on the list in December and very shortly afterwards was appointed as chair of that panel. Given Professor Russell's history of doing hatchet jobs for this government — indeed in the Hawthorn area he was sighted a number of times going around saying that he was a part of the Victorian Audit Commission after 1999 and that his job was to 'get the Kennett government' — I think his balance and fairness and suitability for this process has been called into question. I know that counsel for the Mildura Rural City Council made points at the first day of directions hearings asking Professor Russell to disqualify himself, and I look forward to Professor Russell taking a thoughtful view of that. I look forward to the fact that if the government is serious about this process it will ensure that the panel process is pristine and beyond reproach.

I know legal and quasi-legal processes under way are not normally the subject of direct debate in this chamber, but given the circumstances there is concern that the process be as open and fair as it should be, and given the government's determination to push forward with this process, I think the community is entitled to draw some conclusions and I hope they are acted upon.

Others have made the point that the costs being generated for country towns like Mildura through this process are becoming extraordinary. Barristers have been flown in from Melbourne to attend the hearing. Those barristers are costly. I note that the minister was unprepared to come clean about the amount the government is now expending on its legalistic panel process in Mildura. I cannot but conclude that a rural city like Mildura will feel it is being set upon by the government, a government that has flown in a bevy of silks who are there to push a particular case, no matter the fairness of that case. The community is concerned about the costs being generated at council level. Some are saying that estimates of up to \$2 million are realistic for the council in prosecuting or, should I say, defending itself and its community in these circumstances.

That is an extraordinary amount of money — an amount of money that is indefensible in these circumstances. The council is forced to take that step, but that has been forced on it by the government's action. The council has a role to defend its community. It must do that, and I believe it has to do that at almost

whatever cost, because this will have such a serious impact on the agricultural and horticultural activities which are the very lifeblood of Mildura and the Sunraysia region. The council has been forced into a very difficult position, but ratepayers will of course be forced to bear the burden.

A point made in this chamber yesterday was that taxes come from the whole community and are being used by the government at a very fast rate to prosecute its legal case in Mildura. I for one think it has reached a point that is abominable and entirely unsatisfactory. The Minister for Environment in the other place, John Thwaites, and the Minister for Planning in the other place, Rob Hulls, who is directly responsible for the planning process, and the Premier, Steve Bracks, should look again at this situation. They should be prepared to step back from their earlier positions, indicate that they have got it wrong and say that they have blundered in this process and that it should not proceed.

This motion directly calls on the government to do that, and I would welcome the government's admission that it got this wrong and its preparedness to step back from this case. But unfortunately I see no sign of that. Indeed the signs are all in the opposite direction, and the issue with that is that those along the route are going to face real concerns, whether they are in Bendigo or whether they are in the smaller towns along the route. Ms Lovell will make some points about the towns and cities along the route from Melbourne which will bear the brunt of the government's toxic waste trucks. Truck after truck will trundle up the highway and put communities at risk, and that risk does not appear to have been fully factored in at this point.

The community, and certainly many I have met in the community, is very concerned about the impact on national parks. Biodiversity plans should be regionally based and incorporate both government and private lands and the different types of government land, whether they be national parks, state parks, conservation parks or other category of land held by government. The long-term containment facility environment effects statement says:

A total of 135 indigenous and 14 introduced vascular plant species (ferns, conifers, flowering plants) have been recorded from a study of approximately 3 square kilometres within which the subject site is located. These plant species include five pieces of state significance. Seventy-eight vertebrate species were recorded in the study including 55 bird species, 7 mammal species and 16 reptile species. Five species listed as threatened under the Environment Protection and Biodiversity Conservation Act 1999 —

the EPBC act —

were recorded in the study area, including the Mallee emu-wren and the greater long-eared bat.

These biodiversity and conservation issues have also been noted by a number of respected bodies. I was pleased as a member of Birds Australia to see that it had put in a significant submission, which says:

Birds Australia is strongly opposed to siting the long-term containment facility at Nowingi ... the site is exceptionally important for birds in that it contains or has contained in the recent past and may still contain 14 species on the advisory list of threatened fauna in Victoria 2003, 9 of which are listed as threatened taxa under the Victorian Flora and Fauna and Guarantee Act 1988, and 5 are listed as endangered or vulnerable under the commonwealth EPBC Act 1999 ... Twelve of these species are included in the Action Plan for Australian Birds (2000).

It is worth making the point that the table that Birds Australia attached to its submission listed the black-eared miner as an EPBC endangered species, and its Victorian status is also listed as endangered. The mallee fowl is listed as vulnerable, and its Victorian status is listed as endangered. The Victorian status of the grey falcon is listed as endangered. The red-lored whistler's EPBC status is listed as vulnerable, and its Victorian status is listed as endangered. The Major Mitchell cockatoo is listed as endangered under Victorian status. The mallee emu-wren is listed as vulnerable under EPBC status and its Victorian status is listed as vulnerable. The regent parrot is listed as vulnerable under both EPBC and Victorian status, and the scarlet-chested parrot is listed as vulnerable under Victorian status. The Victorian status of the following birds is listed as near threatened: the brown treecreeper, the crested bellbird, the chestnut quail-thrush, the hooded robin, the red-backed kingfisher and the striated grasswren.

The South Australian Ornithological Association also made points about the number of bird species of conservation significance that occur in the Mallee and adjacent to desert vegetation communities that are shared between South Australia and Victoria and listed many of the same species. The point again is that these biodiversity issues should be considered at a regional level. They must include consideration of holdings of public land of various types, including but not exclusively national parks, and also private land.

The Sunraysia Bird Observers Club made a number of points as well:

As a branch of the Bird Observers Club of Australia we believe the proposal will have a severe negative impact on the biodiversity and habitat of the many threatened species that are known to be present at the site or use the site and immediate surrounds as a corridor to other areas of the Mallee.

Movement across these areas is an important point, and this is why a regional focus has to be adopted for biodiversity. The club further said:

The Mallee bioregion is a mosaic of Mallee plant communities of varying habitat size and age depending when fire events occurred.

It is remarkable when on site in the area around Nowingi to note that there exists there some of the best old-growth Mallee in pristine condition. It was certainly put to me, Ms Lovell and others on our visits to the site that some of the trees there are many hundreds of years old and potentially more than a thousand years old in some cases. The management of that land is also of some significance in the longer term.

The bird observers club concluded that:

The proposal to locate a LTCF —

long-term toxic containment facility —

at Nowingi will endanger threatened species and cause loss of habitat and place them under increased pressure which over a period of time ultimately sees their numbers decrease when the fine ecological balance is broken.

The government has exempted itself from certain land-clearing arrangements. I am conscious of the amount of time I have. The bird observers club also raised a number of issues, including the history of the Mallee, land clearing and the need to preserve sites in a constructive way.

I also complement the Victorian National Parks Association on its submission to the government's environment effects statement process. The VNPA stated:

Alternative sites outside of Nowingi must be investigated in order to avoid clearing, protect biodiversity and to seek a site that does not have corrosive ground water. A site that is closer to industries using the facility would also be desirable. The source and quantity of water required at the site must be identified and the possible effect of the ground water on the proposed facility outlined in detail. The impact of the proposed facility on flora and fauna and on the park is unacceptable, and this is apparent from even a cursory survey effort. The impact on visitors to the park is also not acknowledged.

That is an important point. It is impossible to be on site in those areas around Hattah and Nowingi and in those national parks and not have the view that the government has this wrong. The government has not understood that key biodiversity issues are involved. It appears not to have given sufficient weight to the need to strengthen protection of those threatened species in the area. It appears not to have understood that its job is to look a little deeper and longer term than it has done

in finding some immediate but unsatisfactory site to simply ship waste up the Calder corridor to and dump it at.

I am particularly concerned that Labor Party members who now seek to represent the new upper house electorate of Northern Victoria Region should declare their position on the dump. In my view they should consider carefully their conscience and the evidence closely. Minister Broad and parliamentary secretary Ms Darveniza are city women who represent city seats. It would be extraordinary if, as one of the first steps in their seeking to represent these new areas, they were to vote in favour of a toxic waste dump in an area that is environmentally sensitive. That would be a disgraceful introduction of those proposed Labor candidates to the northern region. It is sad that the government has not understood that it has to have proper people represent these areas, people who have an understanding of the areas and people who have a commitment to their local communities.

I have been prepared to ensure that some of the opposition's time is allocated to a member for Ballarat Province, Ms Hadden, and I understand that The Nationals also have an arrangement with Ms Hadden so that it will provide 10 minutes of time.

**The ACTING PRESIDENT (Mr Smith)** — Order! There is no need to discuss the time.

**Hon. D. McL. DAVIS** — I am prepared to put it on the record because of our commitment to democracy in ensuring that Independent members of Parliament are able to represent their communities and make their points. You will understand, Mr Acting President, that our commitment in that regard is strong, and for that reason Ms Hadden, whom I know is a close associate of yours, would be prepared to make certain points.

**The ACTING PRESIDENT (Mr Smith)** — Order! Mr Davis will come back to the motion.

**Hon. D. McL. DAVIS** — It is interesting to reflect on areas like Ballarat, through which some of the trucks transporting toxic waste may well be routed. It is likely that trucks will not simply go through Bendigo or other similar routes, but there is a whole raft of different ways that trucks will get to Nowingi. All of those country members, indeed some of those who are close to the city, will over time come to understand that their communities will face the impact of these toxic waste trucks.

In my final series of points I return directly to the motion and indicate that the government should abandon its flawed environment effects statement

process. This is a costly process, one that is not as independent as it should be and one that in my view will be open to legal challenge. That legal challenge was flagged by the Mildura Rural City Council in its submission on the first day of the directions hearing.

That matter has been brought to the attention of the Minister for Major Projects who has the responsibility in my view to ensure that these processes are conducted in a way that is not overly costly to industry or the community but is equally open and fair. This process is anything but open and anything but fair. It is clear that the government has a sharp agenda to open this toxic dump at Nowingi and in doing so place the community in Sunraysia at some risk. I believe the community is slowly waking up to these issues. Ms Carbin. a member for Geelong Province, who is Parliamentary Secretary for Environment, should be prepared to stand up for the environment rather than advocate such an outrageous outcome.

The government has not understood what is required or the long-term issues. I am keen to see the government step back from this. I believe the political pressure on it by communities will be such that it will begin to understand the full impact of the proposed toxic waste dump. In the end I believe the government will be forced to step back from this proposal. It would be better for the community if it did so before the proposal imposes a significant financial impact on many of the smaller rural communities along the route.

**Ms CARBINES (Geelong)** — I am very pleased to speak on behalf of the government this morning on a topic the Bracks government takes extremely seriously: the safe long-term storage of prescribed industrial waste. It is an issue in which all Victorians should have a vested interest, because no matter where we live we are all beneficiaries of a society which produces goods for our use and for export. Our economy benefits from these goods, but unfortunately industrial waste is a by-product of that process.

Industrial waste is a fact of modern life in all developed nations, across Australia and in Victoria. We are no exception. Prescribed industrial waste includes waste that is potentially hazardous to human health or the environment and those wastes which may impact on amenity, such as odour. The Bracks government is working really hard to tackle the important environmental issue of reducing the amount of waste stored in landfill. We are working with Victorian industries to reduce the waste generated and to find ways to safely reuse, recycle or recover energy from that waste which cannot be avoided. In our first term we passed the Environment Protection (Resource

Efficiency) Act which increased landfill levies to help reduce the amount of hazardous waste going to landfill. That legislation received strong support from stakeholders.

The Environment Protection Authority (EPA) has advised the government that a review it undertook in May of last year showed that since 2000, under the Bracks government, there has been a 25 per cent reduction in the quantity of prescribed industrial waste being disposed of in landfills. That is demonstrably serious progress. However, we are all very well aware that the production of some industrial waste cannot be avoided and that what cannot be beneficially used should not be disposed of in landfill. That is a fundamental fact. Our government is determined to address this very serious issue by establishing a long-term containment facility for such prescribed industrial waste.

Government members could, as the Liberal Party is perhaps suggesting, bury their collective heads in the sand and pretend that this sort of waste does not exist. We could continue the current, environmentally hazardous practice of storing more and more industrial waste in landfill. We could leave a potentially disastrous legacy for future generations. We could do that and it might be politically expedient to do so. However, as a responsible government we know that the current practice is unsustainable. We have an obligation to all Victorians, no matter where they live, to deal with this issue and we are determined to deal with this issue. It would be easy to avoid the issue of disposing of prescribed industrial waste but it would be irresponsible to do so. We have no intention of shirking that responsibility — our responsibility to all Victorians.

All members of this house would be well aware of the government's search for a potential location for a long-term containment facility for prescribed industrial waste. It has been the subject of much debate across Victoria and in this and the other chamber. As all members would know, we have identified Nowingi, which is 55 kilometres south of Mildura, as a potential location for a long-term containment facility.

The proposal requires a number of assessments and approvals under state and commonwealth laws. It is important to get on the public record what assessments and approvals are required for the siting of a long-term containment facility at Nowingi. The first assessment is a detailed assessment through an environment effects statement (EES) process under the Environmental Effects Act 1978. The second assessment and approval requires an amendment to the Rural City of Mildura's

planning scheme. Thirdly, an EPA works approval and licence needs to be obtained — that is a rigorous process. Fourthly, the federal government, under the Environment Protection and Biodiversity Conservation Act 1999, needs to consider this. This rigorous, four-step process is already under way for the assessment and possible approval of Nowingi as the location of Victoria's long-term containment facility.

It is important to note that the Bracks government and the Premier have consistently stated that this facility will only proceed at Nowingi if the proposal satisfies a rigorous and independent assessment process. That is exactly what is happening. It is exactly what is under way at the moment. An EES process is required and it has commenced. The submissions have been on exhibition and a panel process is about to start. The independent assessment process is well under way, and I will speak more about that later.

What do we have before us this morning? We have the awakening of Mr David Davis. The new shadow Minister for Environment has belatedly discovered Nowingi. All of a sudden he has taken a trek up to Mildura, sniffed the political wind and thought this was an opportune time to have a bit of a go here. He has come in here this morning in an attempt to get some very late political runs on the board with a political stunt. It is very sad to see Mr Davis, in his first real foray into the environment portfolio, come in here this morning and attempt to get some political runs on the board. He has been sniffing the wind in Mildura and hopes that will establish some credibility for the Liberal Party up there very late in the debate.

Let us compare and contrast the interest of various MPs on this issue and various political parties in this debate. We all know that the member for Mildura in another place, Russell Savage, has taken a very particular and keen interest in this issue. He has been dogged in his representation of his community in relation to this issue. He sought and received from the Premier a four-week extension of the deadline for submissions to the EES last year. He did that on behalf of his community. Mr Savage made sure that he put in a submission to the EES exhibition process. He is representing his community.

Mr Bishop has used this chamber many times to represent his community. I heard Mr Davis refer to Mr Bishop talking about Nowingi recently. Mr Bishop has talked about Nowingi consistently for, from my memory, the last year or so. He has represented the views of his community many times. He has brought in many petitions in relation to this issue. He has questioned the minister and used his time in members

statements. He also put in a submission to the EES exhibition process. We all know Mr Bishop's views on the potential location of the hazardous waste containment facility at Nowingi.

Where has the Liberal Party been? Its members have been missing in action until this morning. The members of The Nationals must be scratching their heads about this blatant attempt by Mr Davis to play catch-up politics. They must be saying, 'Where have you been, Mr Davis?' They must be scratching their heads. But they know the wily nature of the Liberal Party in the lead-up to a state election. They know that the Liberal Party will try to seize the political momentum in an attempt to establish some belated credibility on this issue. The Liberal Party was too lazy to put in a submission to the EES process on time, within the exhibition time frame. One thousand seven hundred and forty-nine people or groups managed to put in a submission on time. Where was the Liberal Party? Did it put one in on time?

**Hon. J. G. Hilton** — Not one.

**Ms CARBINES** — Mr Hilton is right. It did not put one in on time. It did not put one in at all by the submission deadline. Is it really concerned about this issue? The former shadow environment minister could not have cared less. He could not be bothered to put in a submission.

**Hon. D. McL. Davis** — Not true.

**Ms CARBINES** — If he did care, Mr Davis, where was his submission? Mr David Davis had to be pushed, shoved and indeed embarrassed by the local media to put in a submission. When did he put it in? Two months late, two months after everybody else who had an interest in this debate, such as the Mildura community, the Mildura Rural City Council and environment groups. The South Australian government and the Victorian Farmers Federation (VFF) managed to put in submissions. Mr Bishop managed to put in a submission on time, as did the members for Gippsland South and Mildura in the other place, Mr Ryan and Mr Savage. Even Ms Hadden put one in. But Mr David Davis and the Liberal Party could not be bothered to put in a submission on time, so are they really concerned about Mildura and the environment effects statement process? Are they really concerned about Hattah-Nowingi and the national parks and the Murray River, or are they only concerned about themselves? I would suggest it is the latter: they are concerned about themselves and an attempt to score political runs on the board in the lead-up to the election.

It would be interesting if everybody took the opportunity to read Mr Davis's submission, because it is pretty much cobbled together. It is made up of everybody else's opinion. We have Mr Davis quoting the VFF extensively, the South Australian government extensively, Birds Australia extensively, the South Australian Ornithological Association, the Sunraysia Bird Observers Club, the Victorian National Parks Association, the Department of Human Services and Enviro West. Mr David Davis has not had an original thought about Nowingi. It is a sad reflection on him. The submission was two months too late, but being an open, honest and transparent government, we were prepared to accept it. We were prepared to take Mr Davis on and include him in the process.

There are no original ideas from Mr Davis or the Liberal Party. He had the benefit of reading everybody's else's submission — and he probably did read the 1749 other submissions — and then cobbled together his own and put it in two months too late. He pinched some of their ideas and put his own name on them. As a former teacher I can tell Mr Davis that plagiarism is not acceptable at secondary school, and it is not acceptable here either. He should take the situation more seriously and put up some alternatives.

What is the Liberal Party's solution for the storage of prescribed industrial waste in our state? One rather loud policy release saying it would locate a long-term containment facility within a 120-kilometre arc from Melbourne is the only thing it has had to say. Where is it to be, Mr Davis? Is it to be in Seymour or in Mornington? What about Macedon? Could it be in Geelong or Cranbourne? Could it be in Canterbury? I would bet it could not be — of course it would not be! — because that is Mr David Davis's electorate.

It is easy, as Mr Davis has done this morning, to accuse the government of having chosen the wrong site when the Liberal Party has made no attempt to identify its preferred site. Not one! If it were serious about this, it would come up with some alternatives. Why does it not want to do that? We have to ask why the Liberal Party is not prepared to identify its alternative site for a long-term containment facility or does that raise the question of what it is going to do about the disposal of long-term hazardous waste? Is it going to continue the policy of storing it in landfill?

*Honourable members interjecting.*

**Ms CARBINES** — That is not very environmentally sensitive. I hope that is not Mr Davis's idea. He has a lot to learn.

We have had this morning a political stunt from a desperate Liberal Party six months out from a state election hoping in some way to boost its chances at the expense of the member for Mildura in the other place, Russell Savage, who has been a consistent contributor to this debate in his community, in the other chamber and in the media and who has made representations on behalf of his community to the Premier and achieved an extension of the EES submission period.

Is the Liberal Party attempting to gain some political mileage over Mr Savage or over The Nationals and people like Mr Barry Bishop, who has come in here time and again to raise this issue? Is that its motivation? Having been involved in politics for quite a long time, I know that communities see through that sort of blatant belated attempt to utilise them in a political debate. They know who has been representing them, and it is not Mr Davis and the Liberal Party.

The Bracks government takes the issue of appropriate and safe disposal of prescribed industrial waste very seriously. It would be politically expedient to pretend that our state does not have to confront this issue. We are working with industry to dramatically reduce the amount of prescribed industrial waste going to landfill. As I have already said, we have had a 25 per cent reduction of that type of waste going to landfill over the last five years — that is under our government. But inevitably any government of this state has to confront the fact that there is some residual industrial waste that is not suitable for landfill and that it needs to be stored in a long-term containment facility. That is a fact of life, a fact of modern industrial life. It is a fact that that waste is the end product of the manufacturing of goods that we all benefit from, no matter where we live.

We all know that the government has identified Nowingi as a possible location for this facility. We all know that. The community knows it, and the people in this chamber know it. What we have done, despite what Mr Davis has attempted to portray this morning, is to put in place a rigorous, open and transparent assessment and approval process in relation to this site. We have conducted a \$12 million environment effects statement process to ascertain the potential impacts of a long-term containment facility on flora and fauna, ground water, air quality, landscape values and the local community as well as on the state and regional economies. It is a very broad, far-reaching EES process. We have provided \$50 000 to the Mildura Rural City Council to engage independent technical advice so that it can submit appropriately to the EES process.

It is important to note that the federal government — the Howard government — has accredited the EES

process that Victoria has put in place in relation to Nowingi. How does Mr Davis stand with that? The member's Liberal federal government has given a tick to Victoria for the EES process. The member has come in here this morning attempting to say that the process is flawed. Well, it meets the standard of the Howard government! Is that not interesting to Mr Davis? Political opportunism from the Liberal Party is again at the fore in the chamber this morning.

The EES and other documents were exhibited from 8 October to 16 December last year. The Premier agreed to extend the exhibition period at the request of Mr Savage, the member for Mildura in the other place, who wanted more time for his community to consider the EES and be able to put in submissions. Seventeen hundred and forty-nine people or groups managed to do that: 1749 people or groups managed to get their submissions in on time as part of the EES process that was extended. There was one person, representing one party, who did not put in a submission on time. Two months too late, Mr Davis cranked it up, took a trip up the highway, sniffed the political wind and decided to put in a submission! I suppose the old adage 'Better late than never' applies. It is better late than never, but it is a blatant, expedient, opportunistic act by Mr Davis.

**Hon. D. McL. Davis** — I wrote it within two days of the panel — —

**Ms CARBINES** — He wrote it in two days!

*Honourable members interjecting.*

**Ms CARBINES** — I thank Mr Davis. His submission read as if he had written it in two days. And I think Ms Hirsh is right: it was a cut and paste of other people's ideas. Mr Davis pinched their ideas. He did acknowledge them as other people's ideas, but he had no ideas of his own. That is a pretty sad indictment for someone who wants to be environment minister of our state, is it not?

**Mr Gavin Jennings** — He doesn't want to be environment minister; that is where you're wrong.

**Ms CARBINES** — That's right, Mr Davis wanted to be the health minister, didn't he? But he got shoved out of that position by Mrs Shardey. He got shoved out of the running for that one! We were all interested to hear about the debate that took place in the Liberal Party at the end of last year. Everyone else managed to get their submissions in on time — 1749 people, but not Mr Davis. He was two months too late. Because we are such an open, transparent, honest and inclusive government we were prepared to accept his submission two months too late; I acknowledge that.

We all know that an independent panel has been appointed to consider the proposal, to consider the EES and to consider public submissions — 1750 of them, including Mr Davis's. The panel will commence its hearings on 26 April. It will fully examine the proposal, consider all opposing points of view and arguments and come to its own independent conclusions. The panel will provide the Minister for Planning in the other place with independent comprehensive advice. As a final step in the EES process the minister will provide a formal assessment of the proposal's environmental effects to the Minister for Manufacturing and Export, the Environment Protection Authority and the federal Minister for Environment and Heritage. That is the approval and assessment process that has been agreed to by the federal Liberal government. The process is rigorous, it is independent, and it has been accredited by the federal government.

The long-term containment of prescribed industrial waste is a very difficult issue for Victoria, and, of course, it is a very difficult issue for the community of Mildura. No-one is pretending otherwise. That community has had its views represented doggedly by Mr Savage, the member for Mildura in the other place, and in this chamber, particularly by Mr Bishop. I would like to acknowledge that Mr Bishop has made considerable contributions. He has presented petitions, he has used members statements, and he has questioned the minister on this issue. He has attempted to represent his community. He put a submission in on time, as did Mr Savage.

It is a difficult issue confronting Mildura; it is a difficult issue confronting the state. Our government is prepared to tackle difficult issues. It would be much easier if we buried our heads in the sand and said, 'Let's just continue what governments have done historically and bury this industrial waste in landfill. Let's not worry about the environmental consequences. Let's not worry about the potential adverse environmental impacts. Let's not worry about the effect that may have on future generations, which perhaps we will not be around to see, but our children and their children will have to bear the cost of it environmentally and financially'. We could do that, but we have chosen not to do that. We have chosen not to do that because we are a responsible government. We are working with industry and the Environment Protection Authority to really assess the issue of prescribed industrial waste in this state. We have taken the issue seriously and, as I have said, since 2000 under this government there has been a 25 per cent reduction in the amount of prescribed industrial waste going to landfill.

That is a serious and demonstrable achievement, but there is some waste that cannot be buried. It is a matter of fact that we need to address this issue. We have an obligation. We are the government of Victoria; we are representing all Victorians, and we need to make sure that we address this issue. The Liberal Party would have us believe the process is flawed and that identifying Nowingi as the preferred site is somehow a political decision. It would have us believe the process is not good enough.

What it has done this morning is demonstrate that it does not understand the assessment and approval process. Either it does not understand it or it is using this chamber to put some cheap political runs on the board very belatedly in the lead-up to the state election. It is trying to steal some of the momentum from people who have worked hard to represent the community, such as the member for Mildura in the other place and Mr Bishop.

Opposition members have come in here this morning and shown that they do not have an alternative. The only policy that the Liberal Party has released — if you could call it a policy; it is probably a made-on-the-run statement by Mr Doyle, the Leader of the Opposition in the other place, when he was pushed — is that it would locate it somewhere within an arc 120 kilometres from Melbourne. This morning I ask the Liberal Party to identify where it is going to go. Is it going to be in Cranbourne? Is it going to be in Seymour? Is it going to be in Macedon? Is it going to be in Mornington? Where is this long-term containment facility going to be? If it cannot locate its preferred site, one can only assume that it intends to keep burying prescribed industrial waste in landfill. It is going to bury its head in the sand and the industrial waste in landfill and pretend this issue does not exist. That would be easy; easy for them and easy for us. We are not prepared to do that; we are a responsible government. I urge all members to vote against the spurious motion that is before the house this morning.

**Hon. B. W. BISHOP** (North Western) — The Nationals have much pleasure in rising to support the motion. I might also add that we have allocated 5 minutes to Ms Hadden so she can make a contribution to this debate as well. The Nationals have opposed this particular project from day one. This particular issue started back in 2003. If after the next election The Nationals have the capacity to stop this project, we will. We will stop it.

Ms Hadden made a couple of interesting remarks, and I will pick her up on a couple of them.

**Ms Carbines** — I was being nice to you in my speech!

**Hon. B. W. BISHOP** — I am sorry, it was Ms Carbines. Ms Carbines was being nice to me in her speech, but I will pick up a couple of her comments. We have a similar policy to the Liberals. If a containment facility, or a toxic waste dump, is built, it should be within 100 kilometres of Melbourne on Crown land — near Melbourne, because that is where most of the waste is generated. Ms Carbines asked why the Liberal Party has not found a site. The Liberal Party and The Nationals are not the government; it is the government's responsibility to find the site. I do not believe we in The Nationals have had our heads in the sand at all.

As I said, we have opposed this project since 2003 for two major reasons. The first one is that this proposed site at Nowingi is right in the middle of our food bowl, which will cause huge losses in both revenue and jobs. If you look at the notice paper you will find that item 7 under my name refers to the losses that would be created if this toxic waste were placed at Nowingi. It refers to the potential loss of 232 jobs and other issues. That has been drawn from the government's own environment effects statement (EES) documents and the research that it has done. After that there is item 8 under the name of my colleague the Honourable Damian Drum. As Mr Drum will talk about later today, his notice of motion refers to the need to embrace other methods of managing toxic waste.

We have objected because it is right in the middle of the food bowl and can cause huge losses of income and jobs. It is next to two of our national parks, the Murray-Sunset National Park and Hattah-Kulkyne National Park, where we have Ramsar-recognised, internationally recognised wetlands that are a great draw for tourism, both international and domestic.

The other issue is that this proposed siting of the toxic waste dump at Hattah-Nowingi is 500 kilometres away from Melbourne where most of the waste is generated. That brings us to the issue of the risk of transport, be it road or rail, from where it is created, through those towns and villages, past schools and hospitals and through communities, and that is a major issue as well.

Our second issue — in fact Ms Carbines partly argued my case, which I will bring to the house now — is that we believe toxic waste tonnages are coming down, and coming down rapidly. We believe industry is responding to the challenges put to it and with new technologies on the horizon we believe there is plenty of room at Lyndhurst; in fact there may well be 20 or

30 years room at Lyndhurst given that tonnages are now being reduced.

If we show a bit of vision in this state — and the government does not seem to have shown much vision on this particular issue — we would most likely be looking at using this waste in a productive way. We should not be putting it away somewhere but should be using it in a productive way. The Nationals strongly believe the government should be putting the same sorts of resources into looking at other technologies to manage the waste we are discussing today. The government should be examining the issue in a totally different way rather than trying to beat communities into submission in relation to placing a toxic waste dump in the Mallee. We believe there is a great future in this technology and given the reduced tonnages we strongly believe that is the way to go.

Yesterday I asked the minister a question about what the budget was relative to the project up to date and what had been spent, and the minister was not prepared to answer. I asked the minister also what the budget was in relation to the Crown's legal costs on the panel hearing. The minister again refused to answer. I put it to the house that if that same sort of money was applied to the technologies and the capacity to reduce waste we would not be looking at building a new facility. We would be doing other things, and that would be far better than what we are talking about today.

I will detail some history. As I said, we have fought this project since 2003, and the first time it came to my notice was when a fellow called Graham Wakefield who lives at Tiega rang my office early one morning in November 2003 to tell me that his wife had been handed a letter. The letter said that the land they resided on had been identified as suitable land for a toxic waste dump. There had been two other sites identified as well — at Pittong and Violet Town. Do members know how they were notified? Cars swept into those farmyards early in the morning, people got out and gave them a letter — a letter just like a summons —

**Hon. W. R. Baxter** — Just like the Gestapo!

**Hon. B. W. BISHOP** — Just like the Gestapo, as Mr Baxter interjects! They got a letter just like a summons. The letter said the government had earmarked the land for a toxic waste dump and it would be either purchased through agreement or compulsory acquisition, which left those people little room to move.

Unlike those on the other side of the chamber, I have had the experience of sitting around the kitchen table with those people and I can still remember the looks on

their faces as they said to me, 'How does the government do this to us? Why would it do this?'. One young man told me he had spent the day on his header thinking of nothing else but those letters and the effect it would have on his farming future.

When the information was finally released about what sorts of tonnages it would be, my memory of it at that stage is that it was somewhere between 80 000 and 100 000 tonnes per year that was going to be put in that proposed dump, whichever of those three sites it might be, with a view to reducing it to 20 000 tonnes after about 15 years, and the proposed facility would have a life of about 30 years. Some of that argument has now moved on, but these people were really upset that the government could make life-altering decisions without consulting them. Later in November 2003 a public meeting was held at Ouyen. The community was galvanised into action as country communities are and it formed the Tiega survival group whose president was Bill Morrish, one of the land-holders in the area.

Over 750 people came to the Ouyen community centre that night to personally and collectively reject the proposal to place a toxic waste dump at Tiega, which is 15 kilometres north-west of Ouyen. There were over 300 apologies from people who could not come for one reason or another, and one reason may have been that they were in the middle of the harvest. At that meeting, I will give the ministers full credit, the then Minister for Major Projects, Mr Batchelor, and Minister Holding from the other place turned up at the meeting and had a go at selling the proposal to the group at Ouyen. It did not work, but at least they were brave enough to come along and have a go and face the people.

There were questions then about transport safety, the future of the clean green image for food production — be that top quality grains or prime Mallee lamb, which is a feature of the Ouyen area — and the list goes on, and it was then mentioned that the irrigation area was just a short way up the road. The meeting that night concluded with a resolution, moved by Tony Hall who heads up Ouyen Inc., that basically said the meeting rejected the siting of a toxic waste containment facility in the Mallee. The motion was seconded by the then mayor of the Mildura Rural City Council, Peter Byrne, and carried unanimously.

The government then demanded of these people that the responses to the guidelines for the environmental assessment process be presented by 22 December 2003, if my memory serves me right. That was only a handful of days after the announcement of the project. We thought this was a pretty cruel and thoughtless act by the government on a number of fronts, particularly as

these people were involved in the middle of a harvest, a very important activity of these hardworking people in the Mallee.

Moving on to 2004, there was a bit more information available as to exactly what type of waste the dump would store. That is why the environment effects statement was needed. and it was then discovered that the proposal posed potential risks to humans, surface water, ground water, domestic and indigenous fauna.

We in The Nationals thought we would look at what the government had done in searching out sites. Whilst it is not our responsibility to pick the site — it is the government's — we lodged a freedom of information request to get more details. It was rejected. We appealed again but to no avail. We knew at that stage it would be a tough fight.

The three communities then got together with many others supporting them and sent a strong message to the government through a well-attended rally at Parliament. They sent the message that the three areas were united and that they would not give up the fight. They wanted to protect their land and the communities and would not be divided. It takes a fair bit for a farming community and farming people to come to a rally as they did. It takes a lot more for them to leave their properties on a total fire ban day — which it was — to drive the message home to the government that this toxic waste dump should be sited on public land and not on productive farmland. That has always been the view of The Nationals.

With those few words I hope to have conveyed to the house the united strength that those communities showed during that battle. They were determined to win. It took a lot out of them, and many of us saw the damage it did to those communities. But they did win, albeit briefly. In May 2004 Nowingi was announced as the site. It was a bolt out of the blue! It was not even on the radar screen. No-one had mentioned it. Minister Batchelor said, 'Sunraysia will understand once the facts are known'. That was another wallop in the face for our communities in the Mallee, because, as I said before, it had not even been on the radar screen.

The minister said it was a great site because it was isolated. He was wrong. The minister said that no-one resides within 9 kilometres of the site. He was wrong. The minister claimed that the geological and hydrological conditions were similar to Tiega. He was wrong. The only constant was the siting of this dump to ensure that it was placed in the Mallee, 500 kilometres away from Melbourne and away from any safe Labor seat. About that time people realised that the proposed

siting of this toxic dump was at the hub of three states. There was a belief and a real fear that the proposed site would have the potential to become a Labor government tri-state toxic waste repository. Of course that was an issue.

Another issue that was raised was that maybe Mildura would be held to ransom on its rail upgrade, rail standardisation and the return of its passenger train. I raised that issue, as I was entitled to, and do you know what happened? The member for Mildura threatened to sue me. But I was not too worried. I said, 'Go for your life. No-one is going to bully me into not sticking up for the communities I represent'.

The question is: did the government look at any other sites? Did it look at the millions of hectares of Crown land that make up a lot of our state? The answer is no. We flushed that out with a question asked by the Leader of the Nationals in the other place, Peter Ryan. So the government picked the site at Hattah-Nowingi, which is close to the Murray River and its intensive irrigation production areas, adjacent to the broadacre farming production, close to the two parks and 500 kilometres away from where most of the waste is generated.

About this time a new group was born to bring about some organisation, cooperation and support to this newest fight for the Mallee. That was the Save the Food Bowl Alliance headed up by citrus grower Peter Crisp and spokesperson Anne Mansell. They have about 150 or 200 people in their group. They have done a great job. The record speaks for itself. They have people in there who are experts in the environment, hydrology, transport and local industry. I commend the group on its efforts.

That generated another meeting held at the Red Cliffs civic centre on 2 June of that year. I invited the Premier to come. He did not come — it was a bit of a pity — but The Nationals leader, Peter Ryan, turned up at the meeting. It was an absolute ripper. About 1400 people were there — and some had to stand outside in the rain. The then Minister for Major Projects, Peter Batchelor, was going to the area on the Friday of that week, so I said to the group, 'Why don't we have a meeting with Mr Batchelor? We can gather to meet him'. And meet him we did. That was the start of the powerful Sunraysia effort of objection and resistance to the toxic dump. I was proud of those people when they got together, and they certainly let Peter Batchelor know precisely what they thought of the government's intentions.

Of course there have been further no-toxic-waste-dump rallies in Melbourne. There has been an interesting accusation that through the backdoor the Bracks government is offering infrastructure funding if Sunraysia gives up its fight on the toxic waste dump. That resulted in the Premier calling on me to apologise, which I did not do. I have every right to ask the tough questions on behalf of my community. There was a great rally. It was huge, noisy and a credit to people like the then Cr Graeme Robinson and Peta Cooper, who were the main drivers but who had plenty of support. It not only drove the message home to the government but it also got national media attention and all of those things that are required to make an impact in such a fight. It finished off with the then mayor of the Mildura Rural City Council, Peter Byrne, making the final statement that, 'There will be no deals, no compromise and no surrender'. That is still the position.

A number of visits by government ministers and protesters were organised by the Save the Food Bowl Alliance. Those went well — and I can tell the house without any doubt that they will continue for as long as the government sticks to its flawed proposal.

In 2005 we had a change. Minister Batchelor was taken out of the major projects portfolio and a minister in our house, Mr Lenders, got the poisoned chalice. We welcomed Minister Lenders having that portfolio, because we thought it would give us a chance to have a chat with him from time to time about the many issues involved in this project. In fact, to give Minister Lenders his due, he came to Mildura. He got a strong reception too, and he saw at first hand the strength and then the pain and suffering this was causing our community. I was again proud of our community. When I stood up on the truck with the others that day and looked out over a sea of people with placards waving, I was proud of them.

I was invited to go with the land-holders as they spoke to Mr Lenders, the Minister for Major Projects. Minister Lenders did a good job. He listened intently and took it all on board. I did not interfere with that, and I am sure the minister appreciated it. However, it was a powerful message to Mr Lenders, and I am sure he remembers that message every time this issue is brought up.

We had a no-Mallee-toxic-waste-dump exhibition in Queens Hall where we exhibited the products of the area. It was certainly a good time, and it gave everyone an idea of what we produce and the risks involved. At about the same time there was a no-toxic-waste-dump' roadshow that travelled down the Calder Highway to inform the townships along the way of what the

government was proposing. On that issue I again asked Minister Lenders whether the government had given any consideration to diverting some funding earmarked for a new site to waste reduction initiatives. I did not get an answer out of him. Rather than an answer I got a bit of a veiled threat. He said that I was putting at risk the transportation of fertilisers and fuel up and down the highway. I could not quite align that to my question, but I think it gave some idea of how desperate the government was getting.

But now the suggestion behind the question I asked is coming true. I think if the government had allocated more finances to that that we may not be having this debate today. My colleague Mr Drum will talk shortly about the waste that will be produced and the new technologies that are being brought out for dealing with it. I believe the amount of waste will be down to a few thousand tonnes in a few years. We might not need any new facilities, because there is plenty of room in Lyndhurst — there is probably 20 or 30 years worth of space at that facility.

It is interesting that the government put out a number of fact sheets. I cannot remember how many but there were lots of them. I think those fact sheets were wrong and that we were misled by experts, if I can put it that way. Early on there was information that the waste would be in concrete blocks, but now I understand it will be in bags in containers. The transport of the waste was to be by road and now it is to be by either road or rail. You can never be quite sure what is going to come up next. I can remember asking Mr Lenders — I am sure it was a question to him — about the safety of the transportation of this waste. He said, 'No problem. If the truck tips over, you just scoop it up and put it back on the truck'. As a result, at one of the rallies the community produced a wonderful scoop built out of a 200-litre drum. It now proudly resides in a corner of the office I share with the Honourable Damian Drum. I think it is about time the scoop wandered through the corridors of Parliament to make its presence felt. That just shows the inventiveness and commitment of the community in making their point.

The Nationals, the Save the Food Bowl Alliance and many others have consistently maintained there will be substantial losses if this proposed dump goes ahead. I do not have time to go through them all, but it is very clear to most people what those losses would be. In fact, if you read carefully, you will see that those losses have been put forward by the government's own researchers. In October of that year we discovered that the dump proposal was to go to the environment effects statements (EES) panel. The announcement was made when Parliament was not sitting so that the government

could avoid a bit of flack. However, that was announced by Major Projects Victoria under Minister Lenders.

Major Projects Victoria produced five volumes on six reams of paper. They weighed 8.6 kilograms, and members of our community were expected to read them, dissect them and write a submission on them within six weeks. That was impossible. What is more, the government tried to sneak the announcement in on a Friday so no-one would notice, but it sort of failed. The locals got wind of it and gathered in Mildura to confirm their existence and pick up a copy of the EES report. Guess what? There were not enough copies. They ran out! In an effort to overcome the sheer size of this bundle of reports in a great big box, my office took upon itself, with the help of the offices of the Honourable Damian Drum and Ms Hadden, the Save the Food Bowl Alliance and the Mildura Rural City Council, to provide local residents with a kit which would give them a shot at being able to make a submission without wading through all of those volumes.

I think it was about that time — it might have been a bit earlier — that the member for Mildura in the other place seemed to have woken up to what was going on. He then started to condemn the government's pushing for the dump. That was a bit of a surprise to us. We were not too sure where he was at that stage, because he is quoted in the *Age* of 21 May of that year — 2004 — as saying:

I'm disappointed that we've been targeted as a site. But if the environmental effects process goes through and it's effective, I think most of our fears will be allayed.

I can tell the house that mine were not. However, he has certainly stiffened up his views since then.

I wrote to the South Australian Premier and received a response which said that South Australia was vigorously opposed to any development in Nowingi or anywhere else that posed a threat to the River Murray. We have some powerful allies in South Australia, and I hope that situation will be maintained. As Ms Carbines said, over 1700 submissions were made to the hearing panel. After those had been exhibited another avalanche of supplementary reports came out and were dumped on our community right in the middle of the horticultural harvest period. That was exquisite timing because so many of our residents did not have the opportunity to read them. I asked the minister to exhibit those and to make a supplementary EES out of them to give us a bit of a break, but he was not being very kind about that either, which was a pity. I think the government's supplementary reports deserved to be

exhibited and deserved to be part of a supplementary EES process.

The Mildura Rural City Council has been absolutely steadfast right throughout in its opposition to the proposed toxic waste dump, but at the moment a couple of councillors are questioning the amount of money the community is prepared to spend to fight the massive — and it is massive — legal team that the government has thrown at Sunraysia. It is a pity, because this has the ability to create a division in our community. It is also a possibility that sees the government absolutely rubbing its hands together in glee, because deep division is what it seeks to achieve. It is a bit of a free kick given to the government. I believe our community will see through all of this, and I believe our people will say they have no choice but to continue on with this fight in the way we started it in 2003.

Likewise, we have had some pretty unhelpful comments from the upper house candidate from Mildura, Stefano Di Pieri, that perhaps it is time to simply wait at the barricades. The answer is really no, because we have no choice but to fight this all the way through every avenue we have before we resort to those tactics. I understand all that. I understand it is tough on our community. It is a lot of money, and we are having a downturn in horticulture. Everyone understands all of that, but we cannot ask people to stand at the barricades unless we have exhausted every avenue we can. I believe these actions gave the government that free kick. It took a bit of the pressure off the government, but it is coming back on now. I was disappointed with what Stefano said. I know, like all of us in this house know, that Stefano was a Labor person in the past, and by his comments you would wonder whether he is drifting back into that area. I hope he is not. He says he is not, but let us see where it goes in the future.

As far as the councillors are concerned, I can understand them having doubts — goodness, everyone has doubts when you are talking about that sort of money — but I believe they should have discussed it at the council, where they really represent their people, in the first instance. I do not know whether there is a code of conduct, or whatever it may be called, for councillors, but I suspect there is one, and it seems to me that that would have covered the issue. But they must now take responsibility for having weakened the effect of the countless hours of work the community has put in.

Mr Di Pieri and those councillors have spoken up. I honestly believe they do not want the dump in the area. They have said that many times, so I have no doubt at all in their good faith in saying that the dump should

not be there. However, they do not offer any alternatives other than to go to the barricades. All that sounds good, and I suspect most of us will be there if it comes to that, but, by gee, it is a big call to make. It is a big call to make to ask people to put themselves on the line, perhaps facing arrest and a criminal record if they do and it comes down to the wire. Obviously the community has not rejected this course of action as a last resort.

Other than that it has also been called political opportunism by the weekend media. They have not been at all helpful, in contrast to other media, which have been really supportive. That accusation is absolute nonsense, and I totally reject it. We did not start this fight in Sunraysia; the government started it. As politicians, we will stand up and defend our people anywhere. I am sure I am going to do it; I will continue to defend them. We have a couple of platforms we can use — we can use the community and we can use Parliament. I will use them both, and I will keep using them, so I strongly urge the house to pass this motion before us this morning.

**Hon. C. D. HIRSH** (Silvan) — I rise today to recommend opposition to the motion proposed by Mr David Davis regarding the possibility of a long-term containment facility in Nowingi. The late Mr Davis put in a late submission to the panel and of course arrived late this morning to make his contribution to the debate and support his motion. I guess that arriving late and doing it all late is part of his way of operating in this portfolio. I suggest that he probably wishes he was back in health, but he is, I imagine, doing the best he can under the circumstances in cobbling together a submission to come up with a cut-and-paste job of bits and pieces taken from all the other submissions that were put in.

**Hon. D. McL. Davis** — Have you read it yet?

**Hon. C. D. HIRSH** — Yes, I have read it now, Mr Davis, and I have noted its cobbled-together nature.

I have also listened with great interest to Mr Bishop's contribution to the debate this morning. Whilst he has not convinced me to vote in favour of the motion, his representation of his community is absolutely excellent. I suggest that when people in his community read his speech they will appreciate his representation of their views. It was a stirring speech, which I enjoyed listening to, and I congratulate him on it. I also congratulate the ongoing commitment of Russell Savage, the member for Mildura in the other place. I have read some of his contributions to debate and see

him also as a stalwart of his community in representing its views.

The role of government, of course, is not always easy, and when considering the placing of long-term storage of prescribed industrial waste the government is aware that the waste cannot keep going into landfill. It must not. Landfill is not going to last, and it is not a good place to store it. Industrial waste needs to be in a carefully contained environment where no damage can be done to the surrounding environment. This is the proposal for Nowingi and what would take place if that decision were made, bearing in mind that the government has made no decision on this and will not do so until the panel results are completely in and until all studies are completed.

Tackling the problem of waste in our community is both difficult and crucial. Given that Mr Davis has not really produced a policy, except in terms of suggesting a site that is within 100 kilometres of Melbourne, if we listened to the opposition we would still be throwing sewage out of our top floor windows so that it rolls down the gutters. In this age we have to deal with the business of industrial and other waste. A government has to do this; it is important, and it must be done.

The reduction by 25 per cent of prescribed industrial waste since 2000 is a very important direction that manufacturers of goods and others are taking. The slogan, or motto perhaps one could call it, of 'reduce, reuse and recycle' is being listened to, and the reduction of industrial waste and the making inert of what has to be stored is very important. It is a priority of this government and should be a priority of all governments in the future. Reducing the amount of material that has to be placed into a containment facility is the way to go; there is no doubt about that. This government has been going that way since 2000, not long after it was elected, when it passed the act increasing the landfill levy, forcing industry to reduce its waste.

When we think about it, every single thing we produce ends up as some sort of waste. When we produce ink for printing it ends up being industrial waste that has to be stored. In everything we do, such as making carpets, for example, we end up with material that has to be stored in some form of containment facility. One wonders what will happen to the earth in the long term as we continue to produce the things that we are used to living with. There is a need to look after the people and the land so that this waste is not leached through the land, and the only way to do that is to store it in a contained facility. Studies so far have shown that the Nowingi site on Crown land will not cause any form of leaching of any material either through ground water

into the Murray River or into horticultural or agricultural ground.

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

**Hon. C. D. HIRSH** — I could make a series of assertions, as Mr Davis is doing, but based on the studies that have been made so far it appears to be a site that may very well be safe to build the storage facility for prescribed industrial waste. There has been a massive process so far which Mr Bishop described very well. That process will continue with residents being listened to by government. Our political process is well under way. It is a democratic process where the local people are well able to express their views, and I congratulate them on the sort of work they are doing in opposing something they feel is inappropriate. But governments will and must make hard decisions; that is part of being in government.

Of course the government's major aim is to reduce the amount of material going into a hazardous waste containment facility. The idea of government is to try to stop the production of waste at early stages of production and recycle and reuse hazardous waste whenever possible. As time goes by and as awareness among the community and in industry grows, there will be less and less of the prescribed industrial waste that is currently created. When one reads about the tanneries along the Yarra River in the 19th century and the enormous pollution that they produced and look at where we were 100 or 150 years ago, we see that we have come a long way in the realisation that keeping on throwing waste into landfill and allowing it to leech into our waterways and into our ground water is unsustainable. Whether we like it or not it is essential to build a containment facility that will in the long term safely keep from the environment the prescribed industrial waste that cannot be placed anywhere else.

The hearings are to take place from the end of the month. I look forward to following the process of those hearings over the next little while, and I look forward to the democratic processes that we are so lucky to have in this country taking place. As I said, no decision has been made and the government will await the outcome of the environment effects statement process. But I urge members to bear in mind that it is necessary. You cannot put your head under the bed and ignore the fact that these problems exist and that government has a responsibility to address them. I urge members to vote against Mr David Davis's motion.

**Hon. W. A. LOVELL** (North Eastern) — I congratulate the Honourable David Davis for moving this motion this morning, and also for the interest he

has shown in this issue since taking on this portfolio only three months ago. I also congratulate the Honourable David Davis and the Honourable Barry Bishop on their contributions this morning. Both were magnificent contributions and outlined many of the reasons why the toxic waste dump should not be located at Nowingi. However, I cannot say the same thing for the contribution from government members, Ms Carbines and Ms Hirsh. They were appalling contributions and between them they could not give us one good reason why a toxic waste facility should be located at Nowingi.

The government likes to come in here and mock the Liberal Party and The Nationals about their support for the people of Sunraysia. It is particularly disappointing that a government feels that that is the best way of representing the people. Certainly what the government cannot mock is our support for the people of Sunraysia and for their concerns. I look forward to going up to Mildura to participate in the panel presentations, along with Mr Davis and a Liberal candidate for the Northern Victoria Region electorate for the Liberal Party, Donna Petrovich.

Irrigated agriculture is an important contributor to this state. Certainly no-one could deny the importance of the Murray River and agriculture and horticulture in the Sunraysia district. Not even the Bracks government could deny the economic significance of the Murray River and the Sunraysia district to the state of Victoria. The position that the government has chosen for this toxic waste dump at Nowingi is close to the irrigated agriculture area in the Colignan district; in fact it is only 13.5 kilometres away. It is inconceivable that the location of this toxic waste dump in such close proximity to the Sunraysia food bowl would not place the region's exports at considerable risk.

Victoria has worked hard to establish a clean, green image and many of our international markets depend on this image. Competitors would be into markets in areas like Korea and Japan trying to damage our image as soon as they could establish that there was a toxic waste dump within the vicinity of the irrigated agriculture area. One cannot blame other countries for taking that advantage, and in assessing the impact that this facility would have on the Sunraysia district we need to take that into account. Just the perception of a toxic waste dump upstream of the irrigation district is enough for our competitors to damage our image in our international markets and for it to affect our exports to many countries.

The Calder corridor transport route is another major concern. I would like to quote from a submission put to

the panel by Raptour Systems. It was put together by Professor Kim Hassall, who has had quite a distinguished career in transport. Some of the things he lists in his biography include being the national transport economist for the Australian Postal Corporation, which is Australia's largest transport network provider. He was also manager of transport operations and dangerous goods and management of transport strategy for that organisation. He has been a member of the urban strategy board for the Australian Trucking Association. In 2002 he was appointed as an honorary associate professor and principal research fellow in logistics at Melbourne University. He has also written 70 major articles on transport and logistics. So he has had a distinguished career and is someone we should listen to. He noted in his submission that:

The specialist road transport report is highly flawed in its assumptions that a toxic dump site at Nowingi will in essence be a 'business as usual' scenario for the road linehaul providers with no added dangers to the Victorian community.

This finding is totally at odds with industry experience for the road linehaul sector be it in hazardous substances or general freight.

The real question should be what is the likelihood of a linehaul truck rollover or tip-over (that is, toxic cargo spillage) outside a 100 km radius of Melbourne and on the brink of a 500 km radius?

Answer: the risk according to industry sources is some four to five times greater than within the 100 km radius. In fact a 500 km linehaul boundary radius —

which is about the position of Nowingi —

... is possibly the most notorious radial boundary for single linehaul truck accidents.

He went on to give some scenarios and make predictions that there could be 2.11 major spillage incidents caused by the additional traffic and that 56 vehicle trips per annum are at risk of overturning. This is creating a significant additional risk to people who use the Calder corridor for transport. Not only is it an environmental risk but it poses risks to Victorian families travelling on and communities along the Calder Highway. The Liberal Party has done some research of its own. A paper was put together by Donna Petrovich, a candidate for the Northern Victoria Region electorate, on schools in the Calder corridor. Donna identified that between Keilor and Mildura there are 81 schools that could be affected by this.

The number of schools situated directly on the Calder Highway is 14. For example, the towns of Malmsbury, Taradale, Elphinstone, Harcourt, Big Hill, Lockwood, Marong, Bridgewater, Wedderburn, Charlton, Sea Lake and Ouyen all have schools located directly on the

highway. A further 10 schools are located within one to four blocks of the highway and would also be significantly impacted on by the additional traffic, by risks to families travelling on those roads and at risk from accidents due to the additional traffic caused by the cartage of toxic waste. The Liberal Party believes that significant risk to families is just not acceptable.

There are also many environmental concerns. Many of those have been outlined by the Honourable David Davis, so I will not go over them. I would like to thank Mary Chandler, who has spent an enormous amount of time with me. I have been to the site four times, Donna Petrovich has been there three times and Mr David Davis has been there twice. Mary has informed us of the impact a toxic waste dump would have on the environment and on species like the Mallee emu-wren in that region.

I note my extreme disappointment that the government speakers listed for this morning are Ms Carbines, Ms Hirsh and Mr Somyurek. I am disappointed that neither Ms Broad nor the Honourable Kaye Darveniza, who seek to represent this region, has chosen to speak on this motion. It shows that these two members do not have the interests of our region at heart. If they are elected as members in the next Parliament, will they represent the concerns of the region? No. They will probably just become the government's mouthpieces in northern Victoria. They will be there to spread the government's spin. I call on both Ms Broad and the Honourable Kaye Darveniza to cross the floor and vote with Liberal Party today. In that way they can show the people of the Northern Victoria Region that they support them and have their interests at heart. They should cross the floor and vote with us on this very important motion.

**Mr SOMYUREK** (Eumemmerring) — The motion before the house today is a difficult one. As a person who lives in Lynbrook I understand how locals feel about the Nowingi site. Lynbrook is wedged between the Lyndhurst landfill and Dandenong South in the IN2Z zone, which is essentially a zone that takes in prescribed waste from across the state. As residents we get a bit anxious. It is an emotive issue locally for the people of Dandenong, Lynbrook, Hampton Park and even as far as Narre Warren and down to Keysborough. I have worked — —

**Hon. D. McL. Davis** — This is what it's about, is it? This is the purpose of this dump in Mildura, is it?

**Mr SOMYUREK** — Regarding the interjection by Mr Davis, at this stage I am explaining my sensitivities — that I have some empathy with the

people of Nowingi and the surrounding area. Over the years I have worked with local environmental activists, people like Stuart Marriner from RATWISE in Dandenong, and there is no doubt that these things create a lot of angst in the community. The challenge is to make sure that the right information is disseminated and gets out to the residents — to the constituents. Politics is a hard game, but we have to be careful not to run scare campaigns, and my concern is that the opposition parties have been running a bit of a scare campaign on this issue. The opposition's mantra so far has been to assert that the environment effects statement process was flawed, that there was no access to documents and that the McKinna report painted a dark picture of the markets in South-East Asia. However, the findings of the market assessments by David McKinna and the economic impact assessment by URS states:

'Perception-based risks to export markets' is one of the four highest-ranked risks remaining in the project, but overall the risk of widespread, persistent damage to export markets is very low. It is very likely that a small number of trades will be impacted, whereby Sunraysia growers could be forced to accept a lower price.

The McKinna study also argues against the view that Australia/Sunraysia enjoys a clean and green market advantage. Nevertheless, I go back to the original paragraphs about perception-based risk. Essentially we cannot have an opposition creating a perception in these markets that goods are unsafe and that somehow they are contaminated.

**Hon. Richard Dalla-Riva** — Acting President, I draw your attention to the state of the house.

#### **Quorum formed.**

**Mr SOMYUREK** — Before the quorum I was speaking about the deleterious effects on our exports of the opposition constantly bagging the Nowingi site. As I said, the McKinna report points to the risk of a perception that the goods coming out of Nowingi will be contaminated. The opposition parties need to be responsible and not perpetuate the perception that items coming from Nowingi will be contaminated or in some way inferior.

The opposition's mantra that the environment effects statement (EES) process is flawed is not right; it is the same process under the same legislation that existed under the Kennett government. The process has been in place during the six years of the Bracks government. It is open and transparent and provides people in the community with opportunities to have their say.

Since the EES process has come under the microscope, it would be prudent at this stage to delineate the background. The expected time line for the EES process is that from 8 October to 16 December the EES staff and the Environment Protection Authority worked towards approving applications to be placed on public exhibition; on 14 February 2006 an independent panel was appointed and announced by the Minister for Planning; on 27 March 2006 the independent panel held its directions hearing; the panel hearings will commence on 26 April 2006; in late June–July 2006 the panel hearings will conclude; in August–September 2006 the panel report will be received by the Minister for Planning; in September–October 2006 the minister will submit his report; and then the Victorian government will announce its decision.

The government expects that the EES process will take until mid-2006 if the site is found to be suitable, and if it is suitable the facility could be constructed in 2007. I cannot see anything wrong with that process, because it is open and transparent and gives all key stakeholders plenty of time to have an input into it. On that basis I oppose the motion.

**Hon. RICHARD DALLA-RIVA** (East Yarra) — I rise in support of the motion. This is an important motion to be debated today and the shadow environment minister, the Honourable David Davis, should be congratulated on his motion. In my view and the view of the Liberal Party this is a government that has undertaken a process which has ignored the interests of country Victoria.

Later I will speak in my capacity as the opposition spokesperson on manufacturing and export because there are important issues bearing on that subject. Those who are in the chamber or those who read the debate in *Hansard* will notice that the previous speaker, Mr Somyurek, delivered what could be said to be a most inane and disjointed contribution when it came to argument and debate. That is another demonstration of the capacity of government members. It is another demonstration of the failure by government members to understand that when in government they should come into this place presenting facts and arguments as to why they would not support such a motion.

Those who down the track read this in *Hansard* will clearly see that Mr Somyurek has failed on every count to argue the five points set out in the motion. About 80 per cent of the time of the preceding speaker, Ms Carbins, was spent outlining the number of submissions and claiming that a submission was not lodged by the Honourable David Davis, although a submission was made. She only needed to ask the

Honourable David Davis about it. The panel process does not take place until later this month. Whether the submission was lodged within the time line or later is a furphy. The reality is that the state opposition has made a submission, and the Honourable David Davis should be congratulated for putting a coherent argument as to why there should not be a toxic waste dump at Nowingi in the Sunraysia district.

Ms Lovell indicated that two Labor members will be going into the new Northern Victoria Region, a region in which Ms Lovell and the Liberal Party's endorsed candidate, Donna Petrovich, have been doing a fantastic job. I cannot say the same for the Labor members, who have failed to go anywhere in the new regions.

**Mr Somyurek** — On a point of order, Acting President, there is a specific motion. Mr Dalla-Riva has been speaking for about 4 minutes, and so far his contribution has been a running commentary on what people have said. He is now onto ALP preselections. I cannot see how the ALP preselection process — —

#### **The ACTING PRESIDENT**

**(Hon. J. G. Hilton)** — Order! I am cognisant of the point Mr Somyurek is making. It is not a point of order, and I ask Mr Dalla-Riva to continue his contribution.

**Hon. RICHARD DALLA-RIVA** — Just to reflect for *Hansard*, we are debating a motion and in debate you counter the arguments that are put forward. I was countering the arguments put forward by previous speakers. The previous Labor speaker put some arguments to the house that were inane, lame, stupid, dumb and disjointed. They did not go to any particular issue in the motion before the house. The motion before the house relates to the fact that this government is proceeding down a path of delivering a toxic waste dump to country Victoria. That is what the government is intending to do.

**Mr Somyurek** interjected.

**Hon. RICHARD DALLA-RIVA** — We have a factional hack on the other side, a factional hack in the Labor Party — —

**Mr Somyurek** interjected.

#### **The ACTING PRESIDENT**

**(Hon. J. G. Hilton)** — Order! I ask Mr Somyurek to cease those interjections.

**Hon. RICHARD DALLA-RIVA** — We have a factional hack on the other side who crunched his numbers in — —

**Mr Somyurek** — On a point of order, Acting President, I object to the words used by Mr Dalla-Riva. On a point of relevance, I expect him to be dealing with the bill — —

**An honourable member** — It is a motion.

**Mr Somyurek** — To get on with the motion. He really has strayed from the motion. He is giving a running commentary on — —

**The ACTING PRESIDENT**

**(Hon. J. G. Hilton)** — Order! The member has taken offence at the words ‘factional hack’. I ask the Honourable Richard Dalla-Riva to withdraw that comment.

**Hon. RICHARD DALLA-RIVA** — I withdraw.

Some in the Labor Party are factional hacks. In fact, many would argue that recent preselections have been full of factional hacks. We have seen — —

**Mr Somyurek** — On a point of order, Acting President, this is a notice of motion. On a matter of relevance, this is not a debate on the internal party processes of the ALP. Please bring the member back to order.

**Hon. D. McL. Davis** — On the point of order, Acting President — —

**The ACTING PRESIDENT**

**(Hon. J. G. Hilton)** — Order! I am prepared to rule on the point of order. I believe Mr Dalla-Riva should use the remaining 8 minutes of his time to address the motion before the Chair, and I ask him to do so.

**Hon. RICHARD DALLA-RIVA** — We have a motion before the house which calls on the state government to abandon its plan for a toxic waste dump at Nowingi. We have seen the ALP preselect a number of people for the Northern Victoria Region. The processes we have seen and the factional dealings of this government have seen it place members of the ALP into areas which they should be supporting. That is what I am getting at with my argument to the house. We have Labor members who will be going into the Northern Victoria Region and will support the toxic waste dump.

This government is not interested in the interests of the community, of country Victoria, of the food bowl, of the national parks, of our water system or indeed the transportation of tonnes and tonnes of toxic waste 500 kilometres through country Victoria. The

government is more interested in putting its factional players into seats in country Victoria.

**Hon. B. N. Atkinson** interjected.

**Hon. RICHARD DALLA-RIVA** — Mr McQuilten is a good member but he was rolled. Ms Carbines spoke before — —

**Mr Somyurek** — On a point of order, Acting President, again, I fail to see what the ALP preselections and the internal processes of the ALP have to do with this notice of motion.

**Hon. D. McL. Davis** — On a point of order, Acting President, the point Mr Dalla-Riva is making is entirely relevant to earlier debate in this chamber about the destinations of a number of Labor MPs and their motivation for making decisions about the toxic dump. I think that is perfectly a matter for debate. It follows on from points raised earlier in the debate. Mr Dalla-Riva is picking up on that earlier discussion, as he is entitled to do. I ask you, Acting President, to rule that there is no point of order.

**The ACTING PRESIDENT**

**(Hon. J. G. Hilton)** — Order! The issue to which the honourable member is referring has been raised in this debate this morning. However, Mr Dalla-Riva has spent a fair amount of time commenting on those previous contributions. I believe he should devote the remainder of his time to the principal motion before the house.

**Hon. RICHARD DALLA-RIVA** — I thank you for that, Acting President.

It is interesting that we have a government with a glass jaw. We have a government that is prepared to step all over country Victoria. We have a government that is more interested in putting people into positions than it is in protecting the people of country Victoria. Like the previous opposition speaker, the Honourable Wendy Lovell, I draw attention to the fact that the two endorsed Labor members for Northern Victoria Region should be sticking up for their region — —

**Mr Somyurek** — On a point of order, Acting President, I refer you to standing order 9.22 which is headed ‘Irrelevance or tedious repetition’. I submit to you, Acting President, that the member has been speaking for 12 minutes and his whole speech has been tedious repetition. I ask you to bring him to order.

**Hon. B. N. Atkinson** interjected.

**The ACTING PRESIDENT**

**(Hon. J. G. Hilton)** — Order! Mr Atkinson, I am on

my feet! I have ruled on this on a number of occasions. I have asked the speaker to address himself to the principal motion before the house. He has not addressed himself to that principal motion for the last few minutes. I ask him, in his remaining time, to address himself to the motion before the Chair.

**Hon. RICHARD DALLA-RIVA** — Due to the rules that have been imposed on this house I am now out of time other than to say I will support the motion. Members on the other side are a bunch of factional hacks, and they should be painted as such.

**Hon. D. K. DRUM** (North Western) — I appreciate the opportunity to contribute to the debate on the motion moved by the Honourable David Davis this morning. The aspect of the motion I wish to — —

*Honourable members interjecting.*

**The ACTING PRESIDENT**

**(Hon. J. G. Hilton)** — Order! We cannot have conversations across the chamber. It is disrespectful to the member on his feet.

**Hon. D. K. DRUM** — The aspect of the motion I wish to concentrate on this morning is the fifth point concerning the development of this toxic waste dump proceeding without satisfactory investigation of alternatives, including programs to reduce the quantities of industrial waste. I will be promoting an aspect of this debate which has been largely left alone — that is, what alternatives do we have to building a glorified landfill, which is effectively what the government wants to do.

I took some notes while I was listening to Ms Carbines earlier. She mentioned the fact that these toxic waste by-products had to go somewhere, and she challenged the Liberals to come up with an answer. The main issue in this debate has been left largely not dealt with. World-best practice technologies are available now for gasification plants, and we have producers of these plants well and truly established in Australia. In particular, Entech, the engineering company I have been talking to in Western Australia, manufactures gasification plants. Those plants are one of the systems of renewable energy that we all talk about all the time in this chamber. Entech makes pyrolytic gasification chambers. These chambers are able to burn household waste, industrial waste, toxic waste and all types of sludge, including sewage and reduce the amount of by-product to 6 per cent of that produced by the current system. Yet can Entech get any government in Australia to enter into this debate in a serious fashion? The answer is quite simply no, they cannot.

The emissions emanating from gasification plants throughout Europe and various states in the United States of America are less than the emissions emanating from natural gas, so effectively we are talking about minute emissions into the atmosphere. This is a win-win situation that I have tried to have debated in Parliament for the last month. I have raised various matters on the adjournment directed to the environment minister I have proposed notices of motion. I have pushed it in our submission to the panel hearing, which is being held in Mildura at the minute.

We have tried to get Entech to come across and be our expert witnesses in this issue and answer questions in front of the panel, but the company is sick and tired of governments with preconceived prejudices against anything to do with using thermal technologies in the destruction of waste in this country. It has been fighting its own government in Western Australia and has had previous fights with the Victorian government in trying to get its technology at least on the table for debate so we can end up with a better outcome for all Victorians. These gasification plants are obviously considered to be the way of the future in many other countries, and I cannot understand why the Bracks government wants to go down the path of making itself so disgracefully unpopular by putting communities along the corridor at risk from the transport regime it is putting in place.

We have had varying estimates of how many trucks will be travelling on the Calder Highway through the outskirts of Bendigo. I know it will send a shiver up the spine of all Bendigonians when there is a truck accident anywhere in their region — —

**Hon. D. McL. Davis** — In smaller towns too.

**Hon. D. K. DRUM** — Of course. The whole region understands that if the Bracks government gets its way with this toxic waste dump at Hattah trucks are going to go through all the communities between Gisborne and Hattah, including Kyneton, Castlemaine, Harcourt, Narong, Bridgewater, Inglewood, Wedderburn, Charlton, Sealake and Wycheproof and, finally, Ouyen. All of those communities are going to be up in arms when it comes time to allow those trucks to use that route. We had an accident about 20 months ago in which a truck collided with a train. The produce in the 4 or 5 hectares of land around that crash site has still not returned to normal because of the damage done by the chemicals involved in the crash. People are genuinely concerned about what will happen if toxic waster enters a stream after one of the trucks carrying it rolls over and spills its load. It is a very real fear, and we need the City of Greater Bendigo — —

**Hon. B. W. Bishop** — Just scoop it up!

**Hon. D. K. DRUM** — The minister did say that if we had an accident like that we would simply scoop it up and put it back on the truck.

Last year, when the Environment and Natural Resources Committee headed over to Europe to work through another report that it was involved in at the time, its members had the opportunity to talk to a lot of people about the way they were trying to reduce landfill. One expert witness in Europe looked us in the eye and simply said, 'These long-term containment facilities for toxic waste dumps just do not work. In time they will crack and fail'. If that is the truth from experts in countries around the world that have used the type of technology the government is talking about — if under oath they look us in the eye and say that two or three layers of plastic lining will in time crack and leak — then the area the government has picked out is just far too sensitive to take that risk with. The geologists who will appear before the hearing panel will prove that any contamination of the water table underneath the new dump site will find its way into the River Murray system in a very few years.

The independence of the panel that is being put together by the Bracks government is seriously in question. The chair, Professor Russell, has held a number of advisory roles for this government, and the community of Mildura has no confidence in his ability to be impartial and enter into this negotiation with an open mind. We have a real concern regarding that. I call on the government — and I have done it in nearly every possible way available to me within the Parliament — to at least enter into debate about thermal technologies.

Is there a better way we can treat these hazardous wastes? Is it true that the total of toxic waste we are currently talking about taking to Hattah can be reduced to 6 per cent of that total? If so, I am also led to believe that the 6 per cent that we are left with can in fact be added to things such as fertiliser and, as fly-ash, to concrete.

So effectively we could have a system that would generate electricity as a renewable resource. We would have effectively nil emissions into the air; the dioxins and the emissions into the atmosphere would be less than natural gas emissions; and we would end up with a by-product at the end of the whole process that can effectively be added to fertiliser and to concrete. Why this is not on the debate in this state at the moment has certainly got me beat.

**Ms HADDEN** (Ballarat) — I rise to speak in support of the motion moved by the Honourable David Davis. I want to place on the record my abhorrence at the Bracks Labor government's pursuit of this crazy madness of wanting to dump toxic waste from Melbourne into country Victoria in the Hattah-Nowingi-Sunraysia district, the food bowl of this state.

I have been vocal on the issue of the Bracks Labor government wanting to dump toxic waste in country Victoria, and I stand on my record of supporting my communities in rural Victoria. I especially supported the community of Pittong in my electorate when this government tried to dump its toxic waste at Pittong and at the other two sites, Baddaginnie and Tiega, in late 2003 and early 2004.

I was vocal then and I am vocal now. I have been supporting the Sunraysia district in its opposition and the Save the Food Bowl Alliance and all the people along that route since the government announced that this was the spot. 'This is the spot,' government members said, 'Yeah, beauty!' It was as far away from Melbourne as government members could possibly get, as far away from the ministers' seats as they possibly could get and as far away from any Labor members' seats. That was the idea all along, I can tell you, having been a member of the ALP for 25 years when I resigned — thank God — in April of last year.

The government is being bloody-minded and crazy. There is absolutely no science behind government members wanting to put toxic waste into this site. I have lodged a submission with the planning panel, but I will place on record that I have little faith in the government-appointed planning panels in this state under this government, because I do not believe they are independent. Nonetheless I put in my submission and I will be speaking to it, and no doubt the government will have its stooges there, noting every word I say. But good on them, I say, because I will not go silently!

**Mr Smith** — But you're going!

**Ms HADDEN** — No, I am not going. I am here to stay. My submission is there. I support the communities. My major concern is, of course, the environment. My concerns also include the roads and rail. What Premier Bracks sneaked into the system in the middle of last year, around June, was, 'Oh, we are now going to look at rail'. The only rail to this site is the Ballarat-Mildura line. And guess where it goes? Right through the heart of Ballarat, under the historic railway station, and north along the Mildura railway

line where the freight travels and where freight trains derail at the moment because the government does not spend any money on it. It requires over \$200 million to upgrade that line to Mildura. There are also massive structural problems with the line, which carries freight — when trains are not derailling off it.

That line, of course, goes through Creswick, which does not have natural gas, as Minister Theophanous seems to think it does. Perhaps the sometime member for Ballarat East in the other place will get out his roadmap, find Creswick and find the houses that do not have natural gas, because that is 40 per cent of them.

**Hon. T. C. Theophanous** interjected.

**Ms HADDEN** — The issue is that the government is sneaking its way into transporting the waste by rail, but that will not work. The councils along the Calder Highway have been united in their opposition to the transport of toxic industrial waste from Melbourne and from Dutson Downs — that will be nearly 950 kilometres of travel from Dutson Downs in Gippsland up to the Hattah-Nowingi site along the major highways of this state — because of the inherent danger.

**An honourable member** interjected.

**Ms HADDEN** — I am only given 8 minutes to speak because of the interjections. I must thank The Nationals and the Liberal Party for giving up some of their valuable time to enable me to speak, because the government does not acknowledge Independent members in this place. I have been vocal on the issue of not wanting toxic waste dumped into country Victoria. This is a very serious issue. In addition to having the Calder Highway as the preferred route to Hattah-Nowingi, the government is also looking at the Sunraysia Highway and the Midland Highway, which travels from Geelong through Ballarat, Creswick, Daylesford and on to Castlemaine.

The government is being very sneaky here because it really has not wanted councils along the Western Highway between Melton and Ballarat to be too involved in all of this. It gagged the Ballarat City Council last year, but it did not gag Moorabool Shire Council. As I said, the government needs to massively upgrade the rail network from Ballarat to Mildura. The government has broken yet another promise and withdrawn the \$93 million, I think it was, that it had promised to standardise the rail lines. That was withdrawn around 2002. The state of our rail right across the state, and especially on this route — the Ballarat–Mildura line — is deplorable.

There is also the issue of safety in transporting toxic waste from Melbourne and Dutson Downs up to the Hattah-Nowingi site. The Minister for Major Projects really has no idea. He is what the Irish call clueless. He said on *Stateline* — we have all seen it — on 6 May 2005, in response to questions put to him by the journalist:

If one of these trucks overturns —

we are talking about a B-double —

you simply scoop it back onto the truck.

Have you ever heard of such nonsense? How in the heck can you scoop up industrial toxic waste?

**Hon. B. W. Bishop** — We've got the scoop.

**Ms HADDEN** — Yes, we've got the scoop. Mr Bishop has got the scoop, I should say, in his office! The Rann Labor government of South Australia was re-elected just recently, and Mr Rann said, 'Look, Victorian government, we will sue you if you damage the Murray River and the environment'. The South Australian government said:

In the event that any waste from the facility threatened South Australia's industry and water supply, the SA government would have no option but to consider compensation actions against the Victorian government ...

I would have thought that would have been enough to slow up Premier Bracks and his cohorts, but it was not. I would have thought the 1745 or so submissions made by people and communities absolutely opposed to this crazy proposal of the government would have been enough to stop the government, but no, it is spending millions and millions and millions and millions of dollars of taxpayers money — my taxes, too — on this project. Here are our taxes at work! It is beating us over the head with the toxic waste dump proposal.

The community has to put its hand into its pocket to fight the government. This is reprehensible, disgraceful behaviour. It is absolutely typical of the Labor government. It does not care about country Victoria. It dumps on country Victoria at every opportunity, like the proposal to dump paedophiles and child sex offenders at Trawalla, Beaufort and Langi Kal Kal. They will be travelling down to Ballarat as well, because that is where the corrections office is. They cannot travel out because they are starved of resources. This is dumping on country Victoria, which is what these city-centric Bracks Labor government ministers are really good at.

Government members ought to read the material that has been written and submitted to various magazines by

none other than Mr Harry van Moorst. He was on the first hazardous waste consultative committee, which was shelved by the Bracks Labor government in April 2000 once it got its report. Who have we got here? Little Mr Howard, the sometime member for Ballarat East in the other place, was also on it for about four months. He kept that secret, did he not! Guess who exposed him? Me, the Independent member for Ballarat Province. He did not want the community to know that he was involved in wanting to dump toxic waste into country Victoria.

What the government has still not done, which is also reprehensible, and it should be ashamed of itself, is undertake the recommendation in the hazardous waste consultative committee final report of April 2000 — that is, the doctored version which was accepted by government — to seek agreement from the National Environment Protection Council for the development of a national environment protection measure to deal with the management of hazardous waste. It has not done that. What was also shelved from the draft report was the recommendation of that consultative committee for toxic waste, because of its dangerousness, to be stored only above ground in a long-term containment facility — not at a dump — within 60 to 100 kilometres from the source of the production. The source of the production, of course, is in Melbourne.

Even Mr Richard Pratt, chairman of Visy Industries, called on the Premier in a letter dated 22 October 2004. It states:

Dear Steve

I am writing to express my concern about the proposed establishment of a toxic waste facility at Hattah-Nowingi.

The proposal proposes a significant threat to one of Victoria's largest, most productive and cleanest food producing areas, the Sunraysia.

That was not enough to stop Steve in his tracks. The former mayor of Mildura, Cr Peter Byrne, who is a life member of the ALP, even pleaded with Steve on national TV. He said, 'Steve, stop the music, please, or there will be blood on the Calder'. And there will be blood on the Calder, because if this government thinks that country communities are going to lie down and take this, it is wrong because they are not going to.

**The ACTING PRESIDENT (Hon. J. G. Hilton)** — Order! When Ms Hadden refers to the Premier she should use his appropriate title.

**Ms HADDEN** — Thank you, Acting President, but that was a quote from the former mayor — he said on national TV, 'Listen, Steve, there will be blood on the

Calder'. He was referring to Premier Steve Bracks, formerly of Ballarat but now of Williamstown.

I have been vocal on this issue in this Parliament since May 2005 in support of the anti-dumping of toxic waste in country Victoria. The appropriate minister, the Minister for Major Projects, Mr Lenders, has lost the plot. As I said, I think he is clueless, too. He does not know what his portfolio is. When I ask him questions in relation to the toxic waste dump he says it is not his portfolio. He says it is the responsibility of the Minister for Environment in the other place or the minister for this or the minister for that, but it is not his. He is not taking responsibility for what has the potential to be an absolute calamity and disaster of mammoth proportions.

The geologists have said in opposing the government's proposal that it is a bad place for a toxic waste dump; geologically it is hopeless. They have gone on at great length to explain the geology of that area. They said:

Nothing will allow the solution to flow quicker than the cracks ... because we have open fissures —

in the clay —

and that will pour down into the sand and from there it's gone.

They also said:

... toxins or contaminants from the waste dump would flow on into the Murray River and contaminate the Raak Plain, an area in the Murray-Sunset National Park where ground water is known to reach the surface.

Those geologists are Tony Mason, Steve Vincent and Ken Wetherby. Those quotes come from a very good story in the *Sunraysia Daily* of 17 December 2005. I have also been involved with the communities and shown my support for the Sunraysia district against this crazy Labor government proposal. I conducted a no-toxic-waste-dump rally in Ballarat, which was very well attended by the community, minus the Ballarat City Council, of course — as I said, it was gagged and told not to be there. I also attended the no-toxic-waste-dump-on-the-Calder rally last year, along with Mr Drum. I will say this in conclusion — I have only about 50 seconds left — let there be no Mallee toxic waste dump: it is socially wrong, it is technologically wrong, and it is hydrogeological craziness. Is it politically right? It is to the Melbourne city-centric Bracks Labor government ministers, of course. It is fiscally wrong. It is wrong, wrong, wrong because it lacks commonsense. I support this motion. It is a terrible shame that the Parliamentary Secretary for Environment, Ms Carbines — given her

contribution — is not supporting this motion, because clearly this is primarily an environmental issue as well as a social issue. This is the largest food producing area in Victoria. We need to keep our food bowl clean and green. Hattah is important. Hattah does matter. It is too big a risk. I say: stop the music and go back to the drawing board!

**Hon. D. McL. DAVIS** (East Yarra) — I am pleased to respond on this issue, and in concluding this debate I want to make a number of points about the form of the debate and the choice of government speakers. I find it extraordinary that neither Ms Darveniza nor Minister Broad was prepared to stand up in this chamber today and defend the government's decision on this toxic waste dump.

This motion is very clear; it is a motion that draws attention to five key problems in the government's proposal for a toxic waste dump at Hattah-Nowingi, and I will quickly summarise the five key arguments. The first relates to the environmental impact. The second argument relates to the agricultural and horticultural production in the Sunraysia food bowl. The third key argument relates to the Murray River and the risk to that important resource, both in the Sunraysia region and downstream in South Australia. The fourth deals with the Calder corridor risk when transporting toxic waste, and Ms Lovell and Ms Hadden have put the arguments about the risk to the Calder corridor and the risk to towns, schools and other facilities along the corridor very strongly. There is no doubt that during Mr Lenders's infamous appearance when he said that the toxic waste should simply be scooped up after having fallen on — —

*Honourable members interjecting.*

**The ACTING PRESIDENT (Hon. J. G. Hilton)** — Order! Members will cease having conversations across the chamber. If members wish to have a conversation, they may leave.

**Hon. D. McL. DAVIS** — The minister's infamous comment that they would simply scoop up toxic waste is indicative of this government's attitude to the people along the Calder corridor and indicative of the government's attitude to people in the Sunraysia region.

The final point in the motion about the toxic waste dump is that there are alternatives. The South Australian government has put the alternatives on the record, and they include the reduction of the quantity of waste. Mr Drum made some points today about the need to reduce the quantity. The government has begun to take some steps in that direction, but it has not fully

understood that it can go much further. There are available technologies now. At a recent meeting one of the key industry groups could point out to me some of the different players in subsets of their industry and say, 'This firm is doing it well and this one is not'. There is huge capacity for waste reduction. That may very well obviate the need for a new long-term containment facility at Hattah-Nowingi, and that has got to be — —

**Ms Hadden** interjected.

**Hon. D. McL. DAVIS** — Ms Hadden is right, it is a toxic dump, and the reality is that, if the government were clever and if it devoted sufficient resources to the problem, it could well reduce the amount of waste to a level where there was no need for this absurd toxic dump 500 kilometres from Melbourne in a precious zone, a zone nestled between two national parks, a zone where the biodiversity values that relate to both fauna and flora will be threatened.

**Hon. R. G. Mitchell** — Where would the member have it?

**Hon. D. McL. DAVIS** — Mr Mitchell has not listened to what I have said; it was about reducing the quantity of industrial waste. That is what the South Australian government said, that is what Mr Drum said, and that is what the government has failed to pick up on.

I make the point that there have been some other members of the government who have been notably absent from the debate in a constructive way, not so much here today but more generally. Where has Mr Cameron, the Minister for Agriculture in the other place, been? What has he done to stand up for his electorate? What has he done to protect the people along the corridor? What has he done to protect the agricultural and horticultural industries that are such a significant part of the state's economy? Ms Petrovich, our candidate, caught the minister in the *Bendigo Advertiser* recently when she made the point that the minister should have intervened, that he should have been prepared to defend the agricultural and horticultural industries.

There are some other notable absentees from this debate. Where is Ms Darveniza? Where is Ms Broad? They are the new Bracks government candidates for the Northern Victoria Region. They are regional rats. Their first act as endorsed candidates will be to rat on their region, to leave their region high and dry instead of defending their region. These regional rats are going to vote in favour of a toxic dump at Mildura in their region.

**Hon. T. C. Theophanous** — On a point of order, Acting President, I know the debate is a lively one and people have strong views on each side, but I believe the comments made by the honourable member in relation to two members who are not in the house at the moment — the Minister for Local Government and Ms Darveniza — are out of order and inappropriate, and I ask the member to withdraw those comments.

**The ACTING PRESIDENT (Hon. J. G. Hilton)** — Order! I caution the member to be temperate in his language when he refers to members of this chamber or other people.

**Hon. D. McL. DAVIS** — Acting President, I will of course be very cautious in the way I refer to members of this chamber or indeed any other chamber, but I make the point that communities in Victoria will hold Labor members to account for their decisions. If the members are prepared to support this disastrous and dangerous option of a toxic dump in Mildura with waste running through a long sweep of country Victoria, they will be held to account.

**Hon. T. C. Theophanous** interjected.

**Hon. D. McL. DAVIS** — It is more than 500 kilometres away, Mr Theophanous, and those toxic trucks have got to get that distance along the roads, past schools and past hospitals. Mr Drum and Mr Bishop made points about an earlier accident. These accidents will occur; there is no doubt that they will occur, and the Labor members to whom I referred earlier and who seek to represent the Northern Victoria Region will be judged harshly by their communities. They are city members who are seeking to represent a country region, and I think that is disgraceful.

The government has still not understood that it will be legally exposed, and the South Australian government has made this point very clearly. If necessary, if there is some pollution of the Murray River and crops are put at risk, the South Australian government will be prepared to launch legal action. Ms Hadden also made this point. There is no question that the risk of litigation is a very real one.

Furthermore, and I draw on the comments of Mr Bishop earlier, there is no question that the government's legal processes are wearing down country Victoria. It is causing significant angst in areas because of the huge costs; and this is the government's plan, its secret agenda. It is trying to wear down country Victorians; to wear down people in Mildura, to make them tired, to cause them cost. A bevy of lawyers has flown up. It is hard to get seats to Mildura now because

there are so many lawyers flying backwards and forward, up to the dump site, and up to the hearings in Nowingi. I have to say that the costs are extraordinary.

The minister was not prepared to reveal to this house the other day the legal costs that have been generated, but estimates of \$10 million or \$12 million are very much in order. Earlier Ms Carbine was saying it will cost \$12 million for the whole process. My information is that it will be much more than that. Legal eagles, silks being flown up there, tens of thousands of dollars a day for seniors and juniors: these costs are ticking over like a cash register gone mad, and it will hurt country Victoria. The government is in effect using bullyboy tactics to wear down the community. I urge those communities of Mildura and Bendigo, and the other towns along the Calder route, to fight, to stand up, to understand that if they do not fight this will be a disastrous outcome for country Victoria.

I make the point that those councillors at the Mildura Rural City Council who are prepared to stand up and fight have understood what is important, and that fight is absolutely critical. The fact is that huge amount of agricultural production is at risk. The economies of their towns and the economy of the Sunraysia district are at risk. If this government pushes forward with its plans, as it appears determined to do, the result will be disastrous. Our exports will be put at risk.

**Mr Smith** interjected.

**Hon. D. McL. DAVIS** — It is not a lie, Mr Smith. You know very well that jobs in industry in Mildura and in the Sunraysia district are at risk.

**The PRESIDENT** — Order! Through the Chair, Mr Davis!

**Hon. D. McL. DAVIS** — Through the Chair, President, it is clear that the unions should be concerned about this proposal because jobs in the agricultural industries in the Sunraysia district will also be at risk. I propose to write to some of the trade unions in the next few weeks to seek their support in this campaign to stop the government's — —

*Honourable members interjecting.*

**Hon. D. McL. DAVIS** — I do. Some of the unions are not happy. The point I am trying to make is that on a number of levels this proposal is a disaster. I have to say that the risk to key fauna and flora is too great, with the presence of the Murray-Sunset National Park on one side and the Hattah-Kulkyne National Park on the other with a small cluster in the middle where the government has chosen — carefully it would seem —

to put its toxic waste dump. It is nestled between two national parks that are committed to values of biodiversity, and these critical national parks will be put at risk. I have to say that the Ramsar wetlands in the Hattah Lakes are also at risk. These are internationally recognised wetlands, signed up near that period when Ramsar was created in 1971. This is a very important set of sites with international significance. In my view the federal government may well have to override this government on environmental grounds and say that it is not satisfactory.

However, a more preferable outcome would be for Mr Bracks and his Labor members to wake up to themselves and realise the damage they are doing. The risk to country Victoria is simply too great, and I urge this house to vote as one. I urge the Independents, Ms Hadden and others, to vote with the Liberal Party on this. I know The Nationals have a strong position on this and its members have articulated that. I know Ms Lovell is prepared to lead a campaign in country Victoria.

I say to Ms Darveniza, to Minister Broad and to Ms Carbines, the parliamentary secretary, that they should think carefully about this because these are important issues; they go to their credibility in the long run. Members who represent the northern region now and Labor candidates who seek to represent the region will be held accountable. For that reason I urge the chamber to support this motion, to oppose the government's toxic waste dump, to condemn the government for its activities and to call upon the government and Premier Bracks to reverse their current stance.

**House divided on motion:**

*Ayes, 18*

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

*Noes, 23*

Argondizzo, Ms	Mikakos, Ms
Broad, Ms	Mitchell, Mr
Buckingham, Mrs	Nguyen, Mr
Carbines, Ms	Pullen, Mr
Darveniza, Ms	Romanes, Ms
Eren, Mr	Scheffer, Mr ( <i>Teller</i> )
Hilton, Mr	Smith, Mr
Hirsh, Ms	Somyurek, Mr
Jennings, Mr	Theophanous, Mr

Lenders, Mr	Thomson, Ms
McQuilten, Mr	Viney, Mr ( <i>Teller</i> )
Madden, Mr	

**Motion negatived.**

**Sitting suspended 1.00 p.m. until 2.03 pm.**

**QUESTIONS WITHOUT NOTICE**

**Wind energy: code of practice**

**Hon. PHILIP DAVIS** (Gippsland) — I direct my question without notice to the Minister for Energy Industries. The Bracks government has continually failed to respect the rights and opinions of local communities that do not wish to have wind farms imposed in their regions. The federal government has today stopped the Bald Hills wind farm development through the Environment Protection and Biodiversity Conservation Act after reviewing a cumulative impact statement and undertaking a two-year wildlife study. Given that the Minister for Energy Industries and two successive planning ministers have been responsible for giving the green light to the Bald Hills wind farm development and still failed to get the process right, will the Bracks government now join in developing the national wind farm code of practice?

**Hon. T. C. THEOPHANOUS** (Minister for Energy Industries) — This decision by the federal Minister for the Environment and Heritage is a decision that I can only describe as a bizarre decision made by an incompetent federal minister for political purposes and one that sets an appalling precedent.

I will read from the minister's own press release which accompanied the report, and we will see what the report itself actually says. I have not had the opportunity to see it yet, but the minister, in quoting from the report, says:

... it may be argued that any avoidable deleterious effect — even the very minor predicted impacts of turbine collisions — should be prevented.

That is the extent of the recommendation, according to the minister's own press release.

What else does it say? It says:

While the report found that the impact of wind turbine collisions on the orange-bellied parrot may be small —

and listen to this —

up to —

not actually, but 'up to' —

one ... per year.

That is what the report found. It found that there could be collisions — there might be up to one per annum. That is the basis for the minister's decision.

The report also found that — —

*Honourable members interjecting.*

**Hon. T. C. THEOPHANOUS** — Maybe I need to teach the Leader of the Opposition some maths. If you have up to one and you do not achieve one, what does that make it? It makes it zero — that is what it makes it!

*Honourable members interjecting.*

**Hon. T. C. THEOPHANOUS** — So it could be zero and it could be one, but no-one is prepared to say how many. Furthermore, the report also says in relation to the birds themselves that their habitat is mainly within 2 kilometres of the coastline. That is what the report itself says. Well, I have got news for the Leader of the Opposition: the Bald Hills proposal does not have any turbines within 2 kilometres of the coastline. This is by any standard whatsoever a politically motivated action and an absolute disgrace. It shows that in this country we have a federal environment minister who does not give a damn about the environment.

*Honourable members interjecting.*

**The PRESIDENT** — Order! That is enough! The Leader of the Opposition has asked a question and might be able to hear the answer, if he stops interjecting. Members on my right should stop interjecting as well and allow the minister to continue his answer.

**Hon. T. C. THEOPHANOUS** — The federal environment minister does not care about the millions of tonnes of pollution that would be prevented by the building of wind farms in this country; he does not care about the impact of that. He does not care about the local jobs in South Gippsland, he does not care about the farmers who will miss out on the income from wind farms and he does not care about the local council, which will also miss out on income from the wind farms. This is a politically motivated action. It is a disgrace, and it is absolutely against the interests of the environment.

*Supplementary question*

**Hon. PHILIP DAVIS** (Gippsland) — I thank the minister for his answer, but given that he has failed to

achieve his target of 1000 megawatts of installed wind power capacity by 2006 and will fail to achieve his target of 10 per cent renewable energy consumption by 2010, I ask: why will he not sign up to the national wind farm code of practice?

**Hon. T. C. THEOPHANOUS** (Minister for Energy Industries) — Let me just say this: this is a discredited federal minister who wants to stop wind farm development. He wants to stop renewable energy development in this country. That is his aim. That is why he got rid of the mandatory renewable energy target (MRET) scheme. Why would anyone sign up to a code of conduct with a minister and a federal government that do not want renewable energy, do not want an MRET scheme and do not want wind farms? We are not that stupid.

### WorkCover: WorkChoices

**Hon. J. G. HILTON** (Western Port) — My question is to the Minister for WorkCover and the TAC. Can the minister advise the house of how the commonwealth WorkChoices laws are impacting on the occupational health and safety system in Victoria?

**Mr LENDERS** (Minister for WorkCover and the TAC) — I thank Mr Hilton for his interest in how the draconian commonwealth WorkChoices laws are affecting Victoria and in particular how the not-thought-through bureaucratic mess of complicated laws is making it harder — —

**An honourable member** interjected.

**Mr LENDERS** — The laws are making it harder, not just for small business, as my colleague says, but also for workplaces to remain safe through the unreasonable impediments they impose on occupational health and safety officers.

Under the Bracks government's WorkCover regime injuries and premiums have come down. Occupational health and safety is an area where Victoria has been proudly leading the way, but just when we get a system in place that is bringing down injuries, bringing down premiums and getting collaboration between workers and their employers, the commonwealth comes trundling down the road with an ideological, Sydney-centric obsession to make it more difficult to deal with these issues.

Let us make no mistake about it: we now have a climate of fear in workplaces that has been brought about by the commonwealth government — a climate in which occupational health and safety officers fear raising the issue of safety in workplaces because of the

risk of being dismissed. Members opposite need to reflect on what a workplace is. The parliamentary Liberal Party has no empathy with workers whatsoever — in fact, it mocks and taunts them.

**Hon. Bill Forwood** — That is a lie!

**Mr LENDERS** — I take up Mr Forwood's interjection. In the Assembly today his good friend and colleague Mr McIntosh, the member for Kew, not once but twice described Moe as a place where there are 'moccasins on everyone'. That is the type of response Liberal Party members have to working people, and that is just symbolic of what members of the parliamentary Liberal Party think of working people in this state.

I draw the house's attention to a quote in the *Whitehorse Leader* by the shadow minister for WorkCover, Mr Atkinson. He may not have spoken for 104 days in this place but he was quoted on page 5 of the *Whitehorse Leader* of 16 November last year. When referring to labour hire Mr Atkinson said — and I commend him for it:

... people should not be seen as robots and slaves. It's important that they also have opportunities for breaks and are not required to carry excess workloads.

I call on the shadow minister and the entire parliamentary Liberal Party in this case to apply some of this rhetoric to the actions of their federal parliamentary colleagues and to see what WorkChoices is doing to occupational health and safety in the workplaces where people work longer hours in fear and where their rights are being stripped away, because that reflects adversely on our health and safety regime.

**An honourable member** interjected.

**Mr LENDERS** — I take up my colleague's comment. There have been three reshuffles of the opposition's frontbench since Mr Atkinson became shadow minister for WorkCover 104 days ago. One of the people involved in those reshuffles, Mr Phil Honeywood, the member for Warrandyte in the other place, is today in Brisbane looking for work in the education sector while Parliament is sitting. Liberal Party members are looking after their own employment but have very little interest in ordinary workers and very little interest in occupational health and safety.

I call upon members opposite to talk to their federal colleagues and ask them to look at what they are doing with occupational health and safety in workplaces. If they want safer and fairer workplaces, workplaces from which workers can go home safely at night, they ought

to talk to their federal colleagues, have these draconian laws scrapped and let the good Victorian occupational health and safety system continue in a collaborative fashion between workers, their employers and the community generally.

### **Minerals and petroleum: exploration**

**Hon. PHILIP DAVIS** (Gippsland) — I direct my question without notice to the Minister for Resources. The Fraser Institute, the respected Canadian economic, social research and educational organisation, has released its 2004–05 annual survey of mining companies. The survey was developed by seeking the opinions of 1121 exploration, development and mining consultant companies around the world. Based on the results of this survey the Fraser Institute has issued a policy potential index — that is, a report card for governments on how attractive their policies are from the point of view of an exploration manager. I ask the minister: why does Victoria rank lower in this survey than every other Australian state in the attractiveness of government policies towards the mining sector?

**Hon. T. C. THEOPHANOUS** (Minister for Resources) — I am pleased to receive questions from the shadow minister for energy and resources — —

**Hon. Philip Davis** interjected.

**Hon. T. C. THEOPHANOUS** — Don't yell; I am trying to answer your question! He has at last decided that there may be some issues of importance to Victorians in this sector and to ask me a few questions, which I welcome.

There will always be varying opinions as to the attractiveness or otherwise of policies or about the investment climate as they are perceived by various players in the marketplace. The best measure is actual investment in exploration and in projects. I have said in this house that investment in exploration in the resources sector in Victoria is running at a record high. I referred to the December quarter figures, which show the highest recorded expenditure on exploration in this state for many years — I think since 1985. We have a very high level of recorded expenditure on exploration. Not only that, we are running third behind the resource-rich states of Western Australia and Queensland in exploration expenditure. We are in front of South Australia and New South Wales, which given their size ought have much greater levels of expenditure than us on exploration.

Beyond the amount spent on exploration there is one other factor — the projects. How many projects are

currently under way? I have indicated to the house before that we have a record amount of investment in real projects occurring right now in this state. In the last 12 months we have seen \$2.6 billion of investment in this sector in Victoria. Members should look at our performance in this sector and compare it to that of the previous government. Members should also look at jobs as the other part of the equation. When we came to power there were about 4000 jobs in this sector.

**Hon. J. M. McQuilten** — How many now?

**Hon. T. C. THEOPHANOUS** — I am glad Mr McQuilten has asked. We now have 10 000 jobs in this sector.

**Hon. J. H. Eren** — Ten thousand!

**Hon. T. C. THEOPHANOUS** — Ten thousand jobs. That is an increase of 6000 jobs since 1999. That is a phenomenal performance by anybody's standard. We have billions of dollars of investment and an increasing number of jobs in regional Victoria. We are very proud of that record.

*Supplementary question*

**Hon. PHILIP DAVIS** (Gippsland) — I thank the minister for his answer. Given his boasting, I ask: why did Victoria's ranking in this annual survey decline by 10 ranks between 2003–04 and 2004–05?

**Hon. T. C. THEOPHANOUS** (Minister for Resources) — I have indicated to the member that I welcome his question. I have also indicated to him that on the variables in relation to real exploration investment, investment in projects and employment levels we are doing much better than could be expected. I am happy to have a good look at the report the honourable member is quoting from. I get a bit suspicious when somebody selectively quotes from a report like this. I undertake to look very closely at the report and provide the member with a written response to the questions he has raised with me today.

**WorkCover: Comcare**

**Hon. J. H. EREN** (Geelong) — My question is to the Minister for WorkCover and the TAC. Can the minister advise the house of any recent changes in commonwealth administrative arrangements that will impact on our occupational health and safety system in Victoria?

**Mr LENDERS** (Minister for WorkCover and the TAC) — I thank Mr Eren for his question and for his ongoing interest in the safety of workers, which goes

back many years to his days in the automotive industry. Mr Eren asked what the changes to commonwealth administrative arrangements will do to our WorkCover and occupational health and safety regimes, which is an issue I have raised in this house before. We need to put it into context. Very recently the commonwealth government dumped on the table 290 pages of regulations which have an enormous effect on WorkChoices and other legislation.

**An honourable member** interjected.

**Mr LENDERS** — They never do that. We have not just workers and their representatives trying to understand and digest this but also small businesses. These are the same people who gave us the GST. They are now giving us the WorkChoices regulations and all the consequences that go with them.

As I said in my earlier answer to a question from Mr Hilton about the climate of fear in workplaces where people are afraid to raise occupational health and safety issues, it goes beyond the changes in WorkChoices. The administrative arrangements of the commonwealth are having a severe effect on safety in workplaces. I refer to the unilateral decision of the federal Minister for Employment and Workplace Relations, Mr Andrews, to broaden the Comcare scheme to let large companies abandon the state WorkCover regimes and move into that scheme. This is not just about premiums, it is far more substantive: it is about the occupational health and safety of individual workers. Minister Andrews preaches about harmonisation and about the states and the commonwealth getting together, but on occasion after occasion he has been afraid to meet state and territory ministers. He cancels meetings and then says, 'We need to have harmonisation and work together'.

We are interested in harmonising, provided we have a race to the top to make things better for workers across the country and remove administrative duplication, but Minister Andrews and the commonwealth want a race to the bottom like the one they have had with the WorkChoices legislation.

This safety gap I am talking about is not just rhetoric. If we compare the Comcare scheme, which is essentially a white-collar public service scheme that the commonwealth is inviting blue-collar industries to join, we see things such as the Comcare scheme having no inspectors; WorkSafe does. How do you enforce the laws if you do not have inspectors? In 2003–04 the commonwealth government issued a grand total of 17 — that is how many Liberals there are in the Legislative Assembly — improvement notices, whereas

the WorkCover authority issued 12 492 improvement notices. So we have one regime that is out there to make workplaces safer by issuing improvement notices and another one which issued 17 in that period of time.

**Hon. M. R. Thomson** — It's the same number as what?

**Mr LENDERS** — The same number as the parliamentary Liberal Party members in the Assembly.

**Mr Gavin Jennings** — If they all showed up.

**An honourable member** — It's down to 16 at the moment.

**Mr LENDERS** — That's right, because one of them is in Brisbane looking for a job! I can see what Mr Atkinson means about the train wreck. They are abandoning it.

WorkSafe inspectors gave advice last year on 43 719 visits. Comcare in the same time did 245. Here we have the Liberal Party and The Nationals — they are part of that iniquitous federal government that does not care about blue-collar workers or injuries in the workplace — mouthing platitudes about occupational health and safety. They are promoting a regime that does not enforce the law. What I would urge everyone on the other side to do is be concerned about the health and safety of workers but also about business costs. Safe workplaces are workplaces that cost less to run. There is a good reason we should cooperate, work together and make our workplaces safer for all Victorians.

### **Biofuel: government vehicles**

**Hon. P. R. HALL** (Gippsland) — My question is also to the Leader of the Government but this time in his capacity as Minister for Finance. Given one of the minister's many responsibilities is that of overseeing the government's 8000-strong vehicle fleet, what does he intend to do to implement the wishes of the Legislative Council to have government vehicles use 10 per cent ethanol-blended fuels?

**Mr LENDERS** (Minister for Finance) — I thank Mr Hall for his question and his ongoing interest in fuels. We on this side of the house certainly did not oppose the motion he moved last week, which shows that despite the rhetoric this place can be quite tripartisan. I guess we all grew up in a period when we knew fossil fuels were going to end. We know there are issues about emissions from fossil fuels and that over time we need to find alternative sources of energy,

particularly clean energy. So we welcome the debate on fuels and on ethanol as an option.

As a government we clearly had reservations some years ago when the commonwealth government, under Dr Kemp at the time, was obsessed with enforcing ethanol levels which did not necessarily suit vehicles. We had warnings from manufacturers that once a number of our vehicles had used ethanol above a certain level their warranties would be voided, and there was a range of other issues. We are very conscious that we need to get this balance right. There was a good debate in this chamber about ethanol, and we will be monitoring very closely when we can safely add ethanol to our fuel supply for our vehicles.

Given that most government vehicles are newer vehicles we probably do not have the warranty issues that I had as Minister for Consumer Affairs some time ago. There was great concern about ethanol coming into fuels. The government fleet is on average about two years old, whereas the fleet in the general community is about 9 or 10 years old, so we can be probably more adventurous with the government fleet than we could in the general community. We will certainly continue to talk to distributors about fuels that have ethanol in them being put in place. The debate in this place showed that at the moment there is a limited number of fuel stations that have ethanol involved where the government fuel card can be used —

**Hon. D. K. Drum** — Get a different card!

**Mr LENDERS** — I take up Mr Drum's objection, 'Get a different card!'. One of the balances we need to consider where we have a number of choices is value for money in government, and I welcome the debate on that.

**Hon. D. K. Drum** — It's cheaper, John! It's cheaper.

**Mr LENDERS** — Mr Drum says it is cheaper. I welcome the debate in this place, because if we get a fuel purchase for 8000 vehicles, we will go for value for money to save the taxpayers of Victoria money on those contracts that we can then spend on education, health, community safety, investment in infrastructure and in regional Victoria. We will continue to look as these contracts come up at the level of sustainability we put in place.

I look forward to Mr Hall's supplementary question, which undoubtedly will be designed to enhance the reputation of the government and not trip me up. We look constantly at how we can better move down this path, and we welcome the debate. Once we get over the

issues of distribution and the issues about manufactured cars and older vehicles, we will warmly embrace any move for more environmentally friendly fuels and look forward to this debate continuing. We are happy to have an ongoing dialogue with Mr Hall about how we can accelerate this.

*Supplementary question*

**Hon. P. R. HALL** (Gippsland) — I welcome the fact that the government is prepared to monitor this project, but my reason for moving the motion last week was to progress this matter, and I think there are ways in which the government can act now, given that there are 56 retail outlets selling 10 per cent ethanol fuel at 4 cents a litre less than the current unleaded price —

**An honourable member** — Can you name them?

**Hon. P. R. HALL** — There are four in my electorate — in Sale, Bairnsdale, Warragul and Drouin — and 52 others around the state of Victoria. I ask the minister: is he prepared to consider issuing fuel cards for use at United Petroleum outlets? Given that the government already has fuel cards for Shell and Caltex at the request of members, why should members of Parliament not be issued with United Petroleum fuel cards so that they can set the example and use ethanol blended fuels?

**Mr LENDERS** (Minister for Finance) — The short answer to Mr Hall is we have agreements in place with companies which have tendered in good faith for government fuel contracts, and we intend to honour those contracts. Once they have expired and we renegotiate new contracts, we will take these issues into account. Mr Hall would understand better than the Leader of the Opposition in the Legislative Assembly, Mr Doyle, who was prepared to rip up contracts on Scoresby in one of his earlier manifestations, that we honour the sanctity of contracts in this place. However, when the contracts need to be renegotiated that will be one of the items high on our agenda.

**Home and community care program:  
multicultural communities**

**Ms ROMANES** (Melbourne) — My question is to the Minister for Aged Care, Mr Jennings. Can the minister comment on the work being done to make Victoria's home and community care services more responsive to people from culturally and linguistically diverse communities?

**Mr GAVIN JENNINGS** (Minister for Aged Care) — I thank Ms Romanes for her question and concern about the wellbeing of older members of our

community, particularly those from culturally and linguistically diverse backgrounds. I will demonstrate our commitment to diversity. Normally I am asked many questions by Ms Darveniza in relation to this issue. She has actually put me on my mettle on many occasions over the years to ensure that home and community care and the other services of the state government are more responsive to the needs of the rich diversity of the cultural heritage of people who have come from many lands to call this place their home.

I can report that there has been some success of the cultural equities gateway strategy that we embarked upon some two and a half years ago to try to increase the access and participation of people from our diverse communities in terms of their home and community care. Recently I had the good fortune to be in the company of many providers at an event hosted by the Municipal Association of Victoria, a major provider of home and community care, in conjunction with the Ethnic Communities Council of Victoria, where we celebrated the success of that work.

On that occasion I was able to indicate that in the first year of reporting in terms of improved access there was an 8.75 per cent increase in service delivery to people from our diverse communities across the metropolitan area in particular, because 9 out of 10 seniors from the diverse communities that we are seeking to improve access to live in metropolitan Melbourne.

I am also pleased to indicate that on the basis of the success of that program, and on the basis of the allocation of the resources, the \$6.2 million which was due to run out on 30 December, I used that opportunity to announce an extension of a further \$1.2 million to be provided to the end of the 2006–07 financial year. The good news for the people of Victoria is that there are 43 agencies, most of which are local government agencies as mainstream providers of home and community care — a wide range of service providers — that will maintain their commitment and capacity to improve access to senior members of our community from those rich diverse backgrounds.

Many ethnic-specific agencies will be involved in extending that program, ranging from the Australian Greek Welfare Society to the Vietnamese Women's Association and Jewish Care. The Ethnic Communities Council of Victoria plays a major role in terms of providing brokerage and advice to the sector. There is a take-up by multicultural resource centres across the metropolitan region to improve our connection with people from the rich backgrounds that make up the people of Victoria. Increasingly over time there will be

an increasing profile of seniors who come from those rich diverse backgrounds.

As a measure of this, perhaps people in the community may think there is a proliferation of Italians and Greeks, which is true because they are the largest communities in terms of seniors, but there will be rapid growth in many smaller communities, such as the Macedonian community which in the next five years will have a 39 per cent increase in the number of seniors within that community. The Croatian community will experience a 25 per cent increase within the next five years alone. There are major service implications because of that. I was very pleased that we provided the sector with advice from an analysis undertaken by Anna Howe that showed a clear demographic trend for the community in recognising the growth in seniors from culturally and linguistically diverse backgrounds within Victoria over the next 15 years. It will be extremely useful support for the home and community care effort.

### **Housing: homelessness**

**Hon. ANDREA COOTE** (Monash) — My question is to the Minister for Housing, Ms Broad. Prior to the Commonwealth Games the minister blatantly housed Melbourne's homeless people in motels throughout Victoria. This was a heartless attempt to hide Victoria's homeless people from public vision during the high profile Commonwealth Games. How many homeless Victorians were relocated during the Commonwealth Games festivities?

**Ms BROAD** (Minister for Housing) — It is disappointing that opposition members are intent on continuing with what they know very well to be a complete fraud. To the best of my knowledge no homeless person was relocated during the Commonwealth Games. What was done by the government prior to the Commonwealth Games was that a commonsense set of actions were undertaken in response to requests from the very agencies that provide accommodation and assistance to homeless people in Melbourne and our regional towns and cities every day and every night of the year.

The simple request the agencies made was in anticipation of an influx of visitors to Melbourne and to our regional centres that were hosting Commonwealth Games activities. I am pleased to say we did have such an influx of visitors, not only visitors who were staying in 5-star hotels but also visitors on a budget who were looking to maximise their budget on attending Commonwealth Games events and minimising their budget on accommodation. That is a commonsense thing to expect, although the opposition seems to have

great difficulty in grasping it — that there would be pressure on budget accommodation not only in Melbourne but also in those regional centres.

What the agencies asked the government to do was assist them to prepurchase the very same accommodation they use every night of the year to ensure it would continue to be available over the period of the Commonwealth Games. I am pleased to say that after they put that proposition to the government, which we were very happy to listen to because the agencies have great experience in these matters, the government responded in the affirmative and assisted them to go out and prepurchase that accommodation. That meant that during the period of the Commonwealth Games the agencies did not have to pay a premium for the accommodation they purchase at every other time.

Hopefully today this might finally get through to opposition members, particularly to the shadow Minister for Housing, that it was a successful action that was undertaken, one that was welcomed by the sector and one which ensured that accommodation was available wherever it was needed by the people who needed it.

### *Supplementary question*

**Hon. ANDREA COOTE** (Monash) — I thank the minister for her answer, but I ask: have these people we are talking about been relocated to public housing now that the games are over, or has the minister just sent them back onto the streets?

**Ms BROAD** (Minister for Housing) — I suppose we should at least acknowledge that today opposition members are asking about homeless people and how they were affected by the Commonwealth Games and not about the Flower Drum restaurant. I was very clear in my response that, to the best of my knowledge, no-one was relocated during the Commonwealth Games, and every effort was made by the government and by the agencies that we should all support and thank these agencies — and certainly this government does — that do such a terrific job in assisting people right across the state who need our support and assistance.

### **Information and communications technology: purchasing strategy**

**Ms CARBINES** (Geelong) — I refer my question to the Minister for Information and Communication Technology. The minister has previously informed the house of the government's success in lowering telecommunications costs to government by

\$200 million over five years through aggregated purchasing. Can the minister advise the house of any other example in which the government has benefited from aggregated purchasing of information and communications technology products or services?

**Hon. M. R. THOMSON** (Minister for Information and Communication Technology) — I thank the member for her question. She is right — the Bracks government's aggregated purchasing approach is working and working well in lowering telecommunications costs to government by about \$200 million over the next five years. It has also resulted in around \$200 million that has been or will be invested in telecommunications infrastructure in Victoria over the next couple of years. It is a win-win for Victoria and a win for Victorian taxpayers.

Aggregated purchasing of information and communications technology products or services can yield great results when it is done strategically and when dealing with commodity products. I recently announced the new aggregated whole-of-government panel for personal computers and notebook computers. This new whole-of-government panel, which replaces nine separate agreements across government, has achieved price levels that will save the government — and I know the Minister for Finance wants to hear this — up to \$20 million over the next five years. I am pleased to be able to say that there are two Australian companies on the panel, Ipex and Optima, along with multinationals Acer, Hewlett-Packard, Toshiba and Dell.

However, there is more than just savings. I know Ms Carbines will be interested to hear that this process has enabled the government to address some of the broader strategic issues such as environmentally friendly disposal of computers, which is a really big issue. This is a first for any Australian government — to have negotiated a product stewardship clause which means for a small price at the very start of the contract departments can get the suppliers to retrieve the computers and ensure they are disposed of appropriately when their lives come to an end. That also applies if the computer is passed on. Government computers are often passed onto community groups and charities but this service still holds for that computer no matter where it is at the end of its life. With a telephone call that computer will be picked up and disposed of in an environmentally friendly way.

But there is still more — I have not finished. The new contracts also ensure that next-day service for computers is guaranteed in regional areas and at the same price as applies in metropolitan areas. That means

it will be the same for rural schools as it is for city schools. This is another example of the Bracks government closing the city-country divide. These requirements will see local small businesses undertake much of this work. No matter which way you look at it, this is the Bracks government delivering yet another world-class performance.

### Greater Geelong: inquiry

**Hon. J. A. VOGELS** (Western) — I direct my question without notice to Ms Broad, the Minister for Local Government. It is my understanding that the inquiry into campaign donations involving some Greater Geelong City Council candidates, some of whom were successfully elected to council, fuelling further allegations of undeclared conflicts of interest, has been completed by the inspector of municipal administration, Merv Whelan. I ask: will this report, in its entirety, undoctored, be tabled in this Parliament?

**Ms BROAD** (Minister for Local Government) — Finally I welcome a question from the opposition about the Greater Geelong City Council. It is very interesting that it has been so long in coming.

*Honourable members interjecting.*

**Ms BROAD** — They are very sensitive. Finally the question has come, and let me respond in this way. Firstly, this government believes in openness, transparency and accountability on the part of elected councillors, just as we expect of members of this Parliament. That is why this government has legislated to strengthen those measures under the Local Government Act considerably beyond the provisions that were in place under the previous Liberal-National government. That is the approach this government takes.

In relation to the particular investigation the member was referring to — the municipal inspector I have appointed to investigate certain matters at Geelong — I am not aware that I have received a report from the inspector. However, when I do receive a report from the inspector I will follow the same procedure I have in every other instance where this has occurred. I will seek advice from my department as to the actions that might be recommended in such a report, which range from legal processes that might require the report to be tendered as part of legal proceedings to processes that might require the tabling in Parliament of the report in order to ensure that the inspector is protected.

The report might require a whole range of actions which I am not in a position to predict because I have

not received the report. When I do receive the report I will seek advice about how that report should be processed. Having received that advice I will take all of the necessary actions to ensure that councils and elected councillors are held accountable for compliance with the Local Government Act in line with the measures that this government — not the former Liberal-National government — has put in place and which we expect will be complied with.

*Supplementary question*

**Hon. J. A. VOGELS** (Western) — I would like to thank the Minister for Local Government for her non-answer. The citizens of the city of Greater Geelong fully expect that the findings of this report on these matters of public importance will be tabled in this house. The minister has not answered that question. Is the minister prepared to confirm that this report will be tabled in this house uncensored and undoctored, and that those found guilty will be dealt with in the same way as the Glen Eira councillors were?

**Ms BROAD** (Minister for Local Government) — In response, no inspector's report is ever doctored. That might have happened under the previous government, but it certainly will not happen under this government. The inspector's report will be the inspector's report and there will be no interference from this government or this minister with its contents. When I receive it, I will deal with it in exactly the way I have outlined to the house.

**Gas: rebate scheme**

**Hon. C. D. HIRSH** (Silvan) — I want to direct a question without notice to the Minister for Energy Industries. Can the minister advise the house of any recent announcements in relation to the high-efficiency gas heater rebate scheme and how this might benefit Victorian families?

**Hon. T. C. THEOPHANOUS** (Minister for Energy Industries) — I thank the member for this question. I am pleased to report to the house that more Victorians can look forward to a warmer and cheaper winter thanks to the extension I have announced of the Bracks government scheme to 31 August 2006.

The high-efficiency gas heater rebate scheme is an important scheme. It is a scheme we introduced two years ago to help ease the financial burden on provincial and outer metropolitan Victorians who are able to access natural gas or are on liquefied petroleum gas (LPG). It is available to households in areas which receive the network tariff rebate.

For the purpose of information I remind the house that the areas covered by a network tariff rebate constitute most of regional Victoria, where, when we came into government, we were faced with the difficulty that its residents were going to have to pay more for electricity than their counterparts in metropolitan Melbourne. We decided at that time to institute schemes which have now cost the taxpayer \$319 million and which subsidise regional Victorians to ensure they have fair and equitable access to electricity.

The rebate is available to people in regional Victoria, as well as a program to assist households with access to natural gas to switch to natural gas heating and households without access to natural gas to switch to LPG heating. The rebate is available on the purchase of selected gas space heaters that have either a 4 or 5-star rating and gas ducted heating systems that have a 5-star rating for energy efficiency. It is also available for LPG space heaters, although they must be flued.

This is fantastic news for provincial Victorians. It means they are able to access up to \$1000 of subsidy towards the cost of a high-efficiency gas heater and \$700 to convert from wood or day-rate electric water heaters to gas hot water heaters. This initiative is about trying to help regional Victorians access high-efficiency gas appliances, save themselves money and contribute to the environment.

I am pleased to say that to date this scheme has assisted 2000 regional Victorians to put high-efficiency gas heaters into their homes in place of wood or low-efficiency electric heaters that are more damaging to the environment. It is a fantastic scheme. It is another of the commitments this government has made to regional Victoria over a considerable period of time I am very proud to be associated with programs that have delivered to regional Victorians the capacity to enjoy the same benefits in energy consumption, hot water and heating in their homes as we are able to enjoy in metropolitan Melbourne.

**QUESTIONS ON NOTICE**

**Answers**

**Mr LENDERS** (Minister for Finance) — I have answers to the following questions on notice: 5417, 6475, 6876.

## PUBLIC SECTOR EMPLOYMENT (AWARD ENTITLEMENTS) BILL

*Second reading*

**Debate resumed from 4 April; motion of  
Mr GAVIN JENNINGS (Minister for Aged Care).**

**Hon. RICHARD DALLA-RIVA** (East Yarra) — I rise on behalf of the state Liberal Party to make my contribution on the Public Sector Employment (Award Entitlements) Bill. Before I state the Liberal Party's position on the bill, let me put some facts before the house. Fact no. 1: there are more people who are self-employed than there are union members in this country. Fact no. 2: people want choice in life. People want work choices in employment. This bill is essentially a sham to prevent the commonwealth WorkChoices law and regulations, which came into operation late last month, from applying to Victorian public sector workers. We see this as a political stunt. We see that the legislation is designed to do no more than continue the control of the union movement in this state. The Liberal Party opposes this bill and believes it is a draconian backward step away from appropriate mechanisms to establish productivity and efficiency improvements in workplaces.

Let me pre-empt the contributions of the Labor members on the other side of the house. Before they start to run about like Chicken Little saying the sky is falling, let us go back to certain issues that were raised in the federal sphere about which the state had some concerns. Do members remember the Labor policy statement saying, 'We will roll back the GST'? That was from Labor's perennial federal Leader of the Opposition. What did he end up doing? He rolled back the rollback. This is a double backflip from a federal Labor member on a policy that was designed to benefit Australia. Its purpose was very similar to the purpose of the WorkChoices law and regulations — that is, improving opportunities and productivity for Australian businesses.

This Public Sector Employment (Award Entitlements) Bill puts in place the requirement that all public sector employees are to be dumbed down, as it were, to remain on a set framework of awards. This bill allows no work choice for public sector employees in this state. It does not allow for hardworking people in the public sector to determine their own requirements and suitability. It essentially removes the option of choice. While those in the public sector may see this as an important part of their protection, I say having a choice is important for the individual. This is the philosophical divide between Labor and Liberal — we believe there

ought to be an opportunity to choose in whatever people do. There should be a choice. If you go to the supermarket and select a range of products there ought not to be government interference suggesting that you can only buy certain products.

The piece of legislation before the house removes the public sector from the opportunities that are provided. This means essentially that people who wish to develop their organisations, improve their productivity and give staff a range of variations to their working conditions are prevented from doing so. We might have people in the public sector who for whatever reason believe they should be given the choice under the commonwealth's WorkChoices legislation to do certain things that would meet their particular needs. This legislation puts everyone into a collective framework. This is typical of the union movement, of unionism as against individualism. This is typical of what this government is about.

**Mr Viney** interjected.

**Hon. RICHARD DALLA-RIVA** — We have here the chief unionist of the government walking into the chamber — Mr Viney. Without question, I can guarantee you that whenever there is a bill before the house that is about protecting unions Mr Viney will be one of the speakers. Is Mr Viney going to be a speaker? I bet you he is. I can guarantee you he will be a speaker, because this legislation is not about giving opportunities to the public sector but about holding the public sector back as the rest of Australia moves forward.

Yes, we will hear talk from the other side, from Labor, about a couple of businesses. Let me put it to the house again: fact — there are more people self-employed in Australia than there are in the factionalised union movement. That is the raw fact. You need to look at where we are going in this country, but you only need to look at the recent preselection rounds in the Labor Party and work out how many on that side were stripped of their positions and how many were put into positions because they were beholden to the union movement to see what this bill is about.

**Hon. Andrew Brideson** — What happened to Sang?

**Hon. RICHARD DALLA-RIVA** — What happened to Sang is that he was gone. He fell off the perch, as many others did. It was not about rewarding those who worked hard; it was about rewarding those in the union movement. That is what this bill is about. This bill is about maintaining the union stronghold in

Victoria. The union movement has no interest other than protecting itself. This is not about the interests of the employees in the public sector.

That raises other interesting points. When the government introduces legislation like this and we talk about the public sector, we need to consider whether the legislation will apply to the hospitals. There are hospitals that work on a private-public arrangement. Do those legislative framework requirements apply to them? Prisons are in my shadow portfolio area. You have some prisons that are operating within the public sector and some that are operating under a private sector arrangement. So what happens? Do you have some prisons operating under the draconian old system the government wants to put in place and other prisons operating under the WorkChoices legislation and regulations?

Why did the federal government bring that legislation in? The Labor government in this state wanted to have the 6 separate industrial relations systems, the 150 industrial relations laws and the over 4000 awards running over some 500 pages. The federal coalition has brought this into the one unit that accommodates greater demand for fairness, choice and flexibility in workplaces by enabling men and women to make their own decisions and trusting them to do so. That is what it is about — trusting men and women to make their own decisions.

Everyone who runs a business will tell you that if you have got staff who are working and you are delivering results that are fantastic for the company and for the staff themselves, you do not want to be removing them. That just does not make sense. What does make sense, though, is that you want to be able to be in a position to operate and to provide choice for those employees who are part of the work environment team. These public sector employment awards unfortunately lessen the capacity of the employer, being the state government, to make those opportunities available.

It is interesting to see from the way the legislation has been set up that it establishes designated preserved awards — the very things the federal government has removed. The federal government has removed something like 4000 separate awards, but this government wants to bring the awards back. It is like the rollback of the GST. They said, 'We oppose the GST. We are going to roll back the GST', and then they rolled back the rollback. This is typical union-Labor stuff. They cannot get it right. It is their policy on the run. This will be an act of Parliament on the run. They have got no idea what they are getting themselves into. They are about to spend tens of thousands, if not

hundreds of thousands or millions of dollars on a High Court challenge, which indeed might end up bringing further problems to this state.

This is about the government doing the bidding of the Community and Public Sector Union (CPSU). They have just been through an enterprise bargaining agreement exercise, and notwithstanding that there is still another 19 months to go, the government has brought in this legislation. Members of the government have brought it in because they are worried. They have brought it in now because they know that it is possible that they will not have control of the upper house. That is what it is about. They are bringing in the legislation now because they want to cement their position by saying, 'Look at us, we have rewarded the CPSU. We have rewarded the union movement'. This just brings in a range of flaws.

As I said before, this legislation cannot apply to all public sector employees. What about those who are in statutory corporations? While people may think hospitals are public sector environments, they could be construed as statutory corporations. The problem we have with the High Court challenge is where that will lead in the longer term.

The other point to note is that bringing in this piece of legislation will not mean less red tape, less bureaucracy or less complexity. What this government is again doing is bringing in more red tape, more complexity and more bureaucracy to try to deal with it. There will be less freedom for public sector employees, both old and new, to enter into workplace agreements which better suit their needs. Again it is about the individual having the choice to work in an environment that meets their needs. Yes, the unions will pick up one or two stories in relation to what is happening, and the members on the other side will get a bit hysterical about that. Like with the GST, they will get hysterical about it, but the reality is that this government is benefiting from the GST windfall it is now receiving. As a matter of interest, you do not hear members of this government saying that they will roll back the GST, although their federal leader did. What the legislation before us is about is fearmongering so they can say, 'We are going to protect you'. Here we have a bill before the house that is designed to protect the union movement.

The interesting point is that the Premier and the Minister for Industrial Relations in the other place seem to want to have it both ways. They travel around the countryside talking about the unified national system, yet what we have here is exactly the opposite. The reality is that this is a bill that works against the federal

government's WorkChoices law. WorkChoices is really about stepping us forward into the 21st and 22nd centuries. The fact is that we are, without doubt, in a period of prosperity, thanks to the federal coalition. The federal coalition did not get there by sitting on its hands and waiting. It did not sit there like this Bracks government, which just meanders along and runs on a line of glossy handouts, brochures and spin. The federal government is a realistic government that worries about the future. If you stand still in government, you go backwards. We have seen this time and again in the manufacturing industry and in the government's incapacity to deliver results.

This government is delivering Victoria into the old days of the Guilty Party. We are trying to ensure at a federal level that this country has something that will lead us into the future. It is a country of only 20 million people, yet we are in one of the fastest growing regions, Australasia, with India and China really moving ahead. Our growth in productivity underpins improvements in living standards. That is what it is about, but productivity can only occur when you offer support and flexibility. What this government wants to do with this legislation is stymie productivity. It wants to dumb it down and put everyone on the same level playing field. That is not how you should work in this environment. Yes, it works for the union movement. Yes, it works for factional gains. Yes, the government is able to say to the union movement, 'Look at the legislation we have brought in; look at the fairness test; look at the preservation of award conditions'. The federal government has just removed 4000 awards, but this state government wants to preserve them in Victoria. It wants to preserve them under part 2 of this bill. It is absolutely amazing!

I feel sorry for the people in the public sector who wish to be able to make their own decisions so they can move forward in a constructive and positive way. This legislation does nothing more than set up a sham. It has no real effect in the true sense. It is self-indulgent and self-righteous.

**Hon. E. G. Stoney** — President, I direct your attention to the state of the house.

#### **Quorum formed.**

**Hon. RICHARD DALLA-RIVA** — As I said, this piece of legislation is really designed to work against the great work of the federal government in its WorkChoices law, which has been designed and is in operation to deliver a better future for Australia. Australia cannot afford to stand still with its current industrial relations laws. The mob on the other side

wants to keep the previous system. It wants to keep it going the way it has been year after year. It was happy to have six separate industrial relations systems, 150 industrial relations laws and over 4000 awards running to more than 500 pages. We now have one piece of legislation of more than 400 pages that is clear and concise and gives real choice to employees and employers — and the unions, believe it or not.

I reiterate my point that there are actually more self-employed people in Australia than there are factionalised union hacks. That is the harsh fact. What the government is doing with the legislation before the house is allowing its union mates to have control over the public sector. That is the real agenda of this piece of legislation. This is not about ensuring the delivery of a fair system. The bill talks about a fairness test, but really the only fairness test is for the union movement. The only fairness test is to ensure there are enough paid-up union hacks for the next ALP branch meeting.

**Hon. M. R. Thomson** — This is about real people!

**Hon. RICHARD DALLA-RIVA** — The minister talks about people. If this were about people the government would be allowing people to have freedom of choice, but it will not allow them to have choice. That is the difference between Liberal and Labor: the Liberal Party embraces individualism and choice and the government wants to bring back collectivism and unionism — almost socialism, and some would say communism. The government wants to bring back a regime of communism, and that is what this is about. Government members are a bunch of communists deep at heart, and that is what this is about. They hate freedom of choice, they hate productivity, they hate efficiency and they hate success. It is amazing when government members wake up every day and look in the mirror that they do not hate themselves, because the reality is that this piece of legislation will do nothing to assist the public sector or the people in the Victorian public sector who want to improve their productivity.

I feel sorry for those people who have joined the public sector and who say, 'I would not mind engaging in the WorkChoices' — and for those members who have been sleeping and who have decided to come into the chamber, I have pre-empted what they will say about the Cowra abattoir. We understand about that case, but it is one place out of the tens of thousands of businesses operating in Australia.

**Hon. R. G. Mitchell** interjected.

**Hon. RICHARD DALLA-RIVA** — For those who have wax in their ears, like the member clearly does have, the reality is — —

*Honourable members interjecting.*

**Hon. RICHARD DALLA-RIVA** — I will give you one — I will give you this policy — —

*Honourable members interjecting.*

**Hon. RICHARD DALLA-RIVA** — I suggest that those on the other side be patient. They might remember this statement: ‘We will roll back the GST’. Do the members opposite remember that? It is the same scaremongering campaign that they are running now. The perennial federal opposition leader said, ‘We will roll back GST’, but what happened? He rolled back the rollback! The federal opposition leader could not accept it, and that is what is happening with WorkChoices here. The government is creating a scaremongering — —

*Honourable members interjecting.*

**Hon. RICHARD DALLA-RIVA** — The Labor Party needs more members for the union movement because it has not got enough. It is wheeling them in now. Some people are rolling them in in Taragos and the like. Some people are going to go. Goodbye, Mr Pullen. The fact of the matter is that this piece of legislation is a sham.

A motion was moved this morning on the very serious issue of a toxic waste dump and hardly any Labor members got up to speak. There was plenty of time for that debate because Labor did not have enough speakers, but when it comes to this piece of legislation, this flimsy bit of nothing, we are going to have four government members speaking. It seems the government’s priorities are more about looking after its own interest — —

**Hon. David Koch** — Its own mates!

**Hon. RICHARD DALLA-RIVA** — Looking after its own mates — thank you, Mr Koch — than it is about supporting true productivity, true options and true work choices for Victorian workers.

**Hon. W. R. BAXTER** (North Eastern) — This bill frankly is a sham, and it is simply the government grandstanding. I suppose the house would think that on that basis I and The Nationals will be opposing it. We are not — —

**Hon. R. G. Mitchell** — Because The Nationals flip-flop.

**Hon. W. R. BAXTER** — Because what this bill does could be achieved by an executive decision of government, by a policy direction to the government’s instrumentalities, whether they be departments or statutory authorities. Therefore it would seem to us to be somewhat superfluous and counterproductive to be opposing a piece of legislation, however unnecessary it is, when the government could achieve the same outcome simply by executive fiat.

It seems to me that opposing the legislation, if we were to do that, would simply give the likes of Mr Mitchell the opportunity, quite dishonestly, to belt The Nationals over the head and say that somehow or the other we are anti-worker, which of course we are not. I think the history of my party clearly demonstrates that we are not anti-worker, that over a long period of years — as I indicated this morning, we are approaching our 90th conference in Bendigo later this week — we have a history of supporting employees, particularly those who are engaged in rural and regional areas. We are proud of that fact.

We are also proud of the fact that we were part of a government in this state which set the scene for achieving — it is not quite there yet, but it nearly is — a unitary industrial relations system in this nation. Surely it makes no sense whatsoever in a nation of six states and a couple of territories, as we are, in this day and age of fast transport and modern communications, including electronic communications and the like, and a work force that is much more mobile than it was in the past, as it should be, to persist with the absurd circumstance of having five or six different industrial relations systems. That simply cannot be sustained. It is totally counterproductive, and I am pleased to have been part of a government that led the way by ceding this state’s industrial relations powers to the commonwealth.

I have seen the WorkChoices legislation arise out of that. Over time I think it will be hailed as a reform of equal gravity, merit, benefit and advantage to this country — to workers, to employers and to the people at large — as some of the reforms introduced by the Hawke government. I give full marks to the Hawke government, and particularly the then Prime Minister, coming from his background in the union movement, for recognising and acknowledging that we could not go on in the way we were. The reforms that were introduced in the 1980s set the scene for the prosperity we are all enjoying now. We have been well managed of course by the current federal government, but nevertheless our success can in some measure be attributed to the reforms set in train by Mr Hawke and his government.

Similarly, we are going to see coming out of the WorkChoices legislation when it settles down over time a great leap forward and a great benefit for employees.

**Mr Viney** interjected.

**Hon. W. R. BAXTER** — Yes, Mr Viney, and I think the great leap forward here will be much more successful than Mao Zedong's Great Leap Forward, because what it does here is enable both sides — employers and employees — to make arrangements that suit their individual circumstances, unlike the Chinese example which was centrally planned and, like all things that are centrally planned, turned out to be an utter disaster. I think what the federal government has set in place is going to prove to be very beneficial over time to many citizens of this nation.

We have seen the union movement, aided and abetted by some of the puppets it pulls the strings for here in Spring Street, allege that the sky is going to fall in, that employers are going to somehow turn into demons and that workers are going to be ground down.

**Hon. R. G. Mitchell** — And you do not think that will happen?

**Hon. W. R. BAXTER** — Of course it will not happen, Mr Mitchell, because we are short of labour in this country. Labour is difficult to get, labour is expensive to engage, labour is expensive to train and labour is expensive to replace if you get rid of it. So why would any employer capriciously dispense with workers if they needed to be replaced at great cost, which is the reality? Of course they would not do it.

On the other hand there have been instances where people have been engaged in good faith by employers and it has turned out to be totally unsatisfactory for one reason or another. In some cases they are simply incompetent; in other cases they are slackers, and there has been a difficulty in having them go. The new commonwealth legislation fortunately alleviates that situation. I know of one company where three or four people have now been given their marching orders under the new legislation, and the rest of the work force, frankly, cheered because they were pleased to see these spongers being got out of the way. They felt that their employment was being put at risk and that the spongers were affecting the ability of that business to survive. That is one of the great benefits of the new legislation, that it will enable security for the great bulk of the work force to be further underlined.

**Mr Viney** interjected.

**Hon. W. R. BAXTER** — Mr Viney, you know how difficult it has been because you know that anyone who was put off on the basis of incompetency was orchestrated by the unions to mount an unfair dismissal claim and great cost was occasioned to the particular employer, so it got to a situation where employers found it cheaper to keep a non-performer on rather than to run the gauntlet of an unfair dismissal claim. We saw instance after instance of that happening.

**Hon. R. G. Mitchell** interjected.

**Hon. W. R. BAXTER** — Absolutely, Mr Mitchell, and I will stand by to the most microscopic examination on any occasion of anyone that I have employed. I have had one or two who turned out to be not as competent or not as conscientious as I would have hoped. That was unfortunate, but those issues were resolved amicably. As a small employer I perhaps had greater scope under the law to do it than a larger employer who was more exposed to union interference. I say quite comfortably that the great bulk of employers — unfortunately I cannot claim 100 per cent, and I acknowledge that — are very keen to make sure that they have a satisfied and productive work force, because they know that the costs of an uncooperative work force are very great indeed. I believe the commonwealth law will come down very heavily on any employers who are shown to be doing the wrong thing. Time will tell, but I am quite confident about that.

What do we have in this legislation? We have this government taking the decision that it will continue to maintain all the emoluments and benefits that its employees are currently enjoying. I have no objections to that, none whatsoever. It is open to the government to do that, and frankly I would be surprised if it did anything other than maintain the current level of employment conditions of its work force. I would be very surprised if it endeavoured to cut them back. As I say, it can do that simply by executive decision. There is no need for this piece of legislation at all.

**Mr Viney** interjected.

**Hon. W. R. BAXTER** — I tell you, Mr Viney, the minute we get back in we will be abolishing this legislation because it is going to be overly restrictive and will create a bureaucratic nightmare because of what it requires. For example, not only is the statutory authority of the government of Victoria now going to have on its bookshelf the up-to-date and current Workplace Relations Act of the commonwealth, it is going to have to have on its bookshelf the repealed act, because this piece of legislation requires it to have the

repealed act on its bookshelf. This legislation requires all the bureaucratic red tape that is in the repealed Workplace Relations Act to be abided by by Victorian government instrumentalities. If that is not a recipe for red tape, bureaucracy, stuff-ups and the like, I do not know what is.

We are also going to have the Victorian workplace rights advocate (WRA), who, we were told by the garrulous Minister for Industrial Relations in this state when the legislation was passed last year, would have a very small office indeed. When I inquired at the briefing what the staffing complement was going to be I was assured that it would be very few, that it was a small office, that there would not be many staff and that its duties were fairly well circumscribed. What do we find in this legislation? A whole heap of new responsibilities are being given to the WRA, a whole heap of new powers are to be given to that office, and it will grow monstrously. There is no doubt about that. We will have in Industrial Relations Victoria a whole new bevy of public servants second-guessing all the time, checking on what Victorian statutory authority employers are doing and what departments are doing. It is just going to become a bureaucratic nightmare.

I say this is totally unnecessary, and that is why when we return to office we will be abolishing this legislation, simply to give Victorian instrumentalities the freedom to act responsibly. We will, of course, as a government give them a direction as to the level of benefits and so on, but we are not going to hogtie them into having to have regard to and resort to acts of the commonwealth and awards of the commonwealth that have been repealed and gone out of existence everywhere else in Australia except in this Luddite state of Victoria. We are simply not going to allow for that, and I am quite happy to say that we will abolish the act when we come into government.

But in the meantime we are not going to oppose the government's legislation now, on the basis that it can do this by executive action in any event. We think it is unnecessary, we think it is unreasonable, we think it is going to be costly and we do not think it is going to help workers in any particular regard at all. It is going to mean they are locked into an archaic system which has largely been repealed everywhere else in the nation. I am quite sure that they are going to feel somehow or other that they are being held back by the fact that their employer, the government of Victoria, is behaving in such a fashion and is not moving with the times. But the government can do it; therefore we say, 'Why oppose a piece of legislation when the government can do it anyway'.

If members of the government want an example of how interfering in the labour market leads to perverse and odd results, have a look at what is happening in France at this very moment. The French government has at long last decided that its overregulated labour market cannot be sustained any longer, and that is generating a fair bit of anguish and riotous behaviour by some of the rabblers over there. Why can the rabblers not see that youth unemployment in France is running at the rate of 25 per cent? Why is it running at 25 per cent? It is because the system is so prescriptive. An attempt by the government of France to lessen that prescription is leading to this sort of riotous behaviour on the streets which is totally counterproductive. The evidence is there for all to see that if you are overprescriptive, you have high unemployment, and that is exactly what France has got with its young people unemployed at the rate of 25 per cent.

In my view this bill was designed by the government in an attempt to embarrass the opposition and The Nationals. We are not embarrassed by it at all; we simply think the government is engaging in grandstanding. We think it is doing something that is entirely unnecessary and uncalled for, but that is its decision and it will pay the price for it in due course.

**Mr VINEY** (Chelsea) — First of all, I am proud to stand here today in support of the Public Sector Employment (Award Entitlements) Bill. I am proud to do that because it is a bill that is fundamentally important in protecting at least public sector employees in Victoria from the absolutely appalling onslaught that is about to take place. In fact it is currently taking place: we are already seeing it in the current WorkChoices legislation.

I must say at the outset that bill is not designed to embarrass members of the opposition. They are perfectly capable of doing that without any help from us. This bill is about good public policy, and this government stands on its record in relation to public policy. I take it, because members of the Liberal Party are opposing this legislation, that like The Nationals they would say that if they came back into government they would abolish this bill. Every public sector employee in Victoria needs to remember that, because that means they want to go back to what Kennett did — that is what that means. Every single public sector employee needs to be aware of that.

**Hon. Bill Forwood** — On a point of order, Acting President, Mr Viney knows that the forms of this house prevent him from referring to previous premiers in that way. I ask that in his contribution he be respectful of others who have gone before. He must either refer to

him as Mr Kennett or Premier Kennett. He cannot refer to him as —

**Hon. M. R. Thomson** — He referred to the Kennett government.

**Hon. Bill Forwood** — No, he didn't. He cannot do that, and I ask the Acting President to instruct him to behave appropriately in this chamber.

**The ACTING PRESIDENT (Hon. H. E. Buckingham)** — Order! There is no point of order, but I ask the honourable member to refer to the previous Premier by his name.

**Mr VINEY** — I refer to what the previous Premier, Jeff Kennett, did to Victorian public sector employees.

This legislation is simply designed to do two things. Firstly, it is designed to ensure that Victorian public sector employees can be protected by the award conditions they were employed under that existed prior to the introduction of the WorkChoices legislation. Secondly, it provides for the fairness test, the no disadvantage test. That is a very fundamental point in this whole debate on industrial relations in this country. At the moment people entering into individual agreements or even enterprise agreements are entitled to be certain that those agreements do not disadvantage them compared to the normal entitlements they would have under an award. That test has been abolished by the WorkChoices legislation of the Howard government, and that is a fundamental point. Members opposite need to understand the impact that legislation is having on ordinary workers, and will have into the future. It will drive down wages and conditions.

We can see the sham of the federal government at the moment trying to put out the bushfires that are breaking out all over the country. It is going to be entertaining to watch them put out those bushfires week after week, month after month and year after year under this legislation.

What happened to the Cowra abattoir workers was that 29 of them were sacked on a Monday, I think it was, and were reinstated by Wednesday. They are still unsure about what that reinstatement means, because according to the company it wanted to reduce the number of employees by at least nine. Despite the Howard's government patching up and putting out of that bushfire — and it would be interesting to know what pressures it put on the employer to back off on this — the fact is that all the legal advice I have heard and read indicates that the company was probably entitled to sack those people on the basis of operational reasons. I do not know what happened behind the

scenes, but all the people involved in designing this legislation, all the legal brains, have said workers can be sacked if there are operational reasons. Under the new WorkChoices laws the fundamental reason does not have to be operational so long as one of the reasons is operational.

We are seeing a fundamental shift in the way this country's workplace relations have been conducted since Federation. This shift takes us from a system where wages and conditions were set in regard not only to a narrow economic view but also to an understanding of broad social policy — of the kind of community and place we wanted in this country. There was a recognition that industrial relations are part of the social policy, not just the economic policy, of this country. The use of the corporations power to bring in the WorkChoices legislation clearly narrows the whole concept of industrial relations to a purely economic issue.

The most fundamental benefit that can be delivered to any Australian is a job. The most fundamental building block for families and community life is a job — a job that pays fairly and provides decent conditions. That is the most fundamental basis of the whole of Australian civil society — it is the fundamental building block of everything. The government in Canberra that represents members opposite is completely destroying that fundamental building block. Of course it will not happen overnight. If the federal legislation does not get changed, it will happen over time — over years, over decades. When our children grow up and are in this place with their colleagues, they will debate what on earth happened at the turn of the century when that Howard government introduced these changes and destroyed the fundamental basis of Australian civil society. That is what they will be discussing.

I assure the house that the state government will do all it can to protect the rights of its own employees and other workers now and into the future. That is what the legislation before us is about.

The Howard government's legislation establishes the Australian Fair Pay Commission. Its role will be to set the minimum rate of pay under the Howard government's new industrial relations system. If members look at its terms of reference they will see that not once is the word 'fairness' used. It is not even in the terms of reference of the fair pay commission. I commented before on the narrow view of the economy of this country. The whole concept of workplace and industrial relations being part of the social fabric of our community has been thrown out the window. Further evidence for that is the fact that the fair pay commission

can only set minimum pay conditions based upon a very narrow set of economic criteria.

What we are seeing across the country is just the beginning of what is about to occur. I agree with members opposite who said, 'When you wake up tomorrow, things will not be that different'. Things have not changed yet. This will not happen overnight; it will happen slowly. But it is absolutely deliberate and conscious. The Howard government is quite clearly undertaking an ideological program to change the whole nature of the structure of work and the relationship between employer and employee in this country.

It was the Hawke and Keating governments that put in place a fundamental reform to industrial relations that recognised the importance of the enterprise — that we needed to have a greater understanding of the enterprise and its capacity to reward its employees. That was a very important shift in Australia's industrial relations system. It helped to build what has been 15 years of economic growth in this country — it helped to create that opportunity. But what the Howard government is doing — and what the lot opposite are reinforcing — is a shift in a different direction again, in the direction of having the employer almost completely dominate the power relationship in these discussions. There is no recognition in the Howard government's legislation that for the good of an enterprise the employer and the employees, represented by their organisations, should sit down and negotiate in good faith to create an outcome that is fair to both the company and the employees.

In this country we now see a union movement that recognises that it is important for its members to have a successful enterprise. But the shift that is taking place under the Howard government structure is that the power relationship is going almost entirely to the employer. It is ludicrous to suggest that employers who have 50, 60 or 1000 workers are going to put in place 1000 individual agreements, because they will not do that. No employer in their right mind would want to put in place 1000 individual agreements, because they would be a nightmare to manage. What they do and are continuing to do is have a single contract imposed on every employee in the enterprise, and in that process they are driving down the wages and conditions of workers in this country. They are doing it through those instruments.

It is ludicrous to suggest that this is some great development in democracy and that employees are now free to negotiate with their employers in this brave new world of employment conditions. It does not happen —

it has not happened in the past, it is not happening now and under the Howard government's laws it will not happen in the future. What this government has to do is make sure that from now and going forward public sector employees are protected from the kind of relationship where a future Kennett-style government can come in and sack people at whim, drive down their wages and treat the public service with the contempt and disrespect that government showed it for the seven years when it was in government.

This government is determined to put in place some protection for public sector employees, and while I recognise that The Nationals are not going to oppose this legislation, the comment from Mr Baxter that a future coalition government will turn this whole thing on its head demonstrates the real danger for public sector employees in the future. They will be treated with the kind of contempt with which they were treated by the Kennett government during the 1990s; therefore I am very proud to support this bill and to commend it to the house.

**Mr SCHEFFER** (Monash) — This bill would not have been necessary if the commonwealth government had not introduced its Workplace Relations Amendment (WorkChoices) Act last year. The purpose of this bill is to protect Victorian public sector workers — a significant and very important section of the Victorian work force — from the negative impact of WorkChoices. Thousands of men and women who work for and on behalf of the Victorian public deserve huge respect. To describe these workers, as has been done in the Legislative Assembly, in disparaging ways as 'traditional, cardigan-wearing public servants' or to suggest that they are somehow protected and cosseted from the real world is insulting to the vast number of highly trained and experienced administrators, researchers, policy developers, technicians and experts in many fields as well as workers who undertake general tasks that help keep the services operating.

Along with other members I attended state schools and public universities where I was educated by public sector employees. Whenever I or members of my family need medical treatment we are cared for in public facilities by medical and nursing staff on the public payroll. When I need reliable information I go to state-provided services, because I trust the public servants who put the information together. I know they are most likely to be objective, because they work in accordance with sound codes of practice. Whatever is publicly provided is for many Victorians the service of choice, because people trust the public service and the work of public servants. Teachers working in government schools right across the state are absolutely

in the real world. Doctors, nurses and other medical staff in our public hospitals daily confront matters of life and death in the real world. Can anyone deny that our police — all of whom are on the public payroll — are in the real world, or our firefighters, social workers, prison staff or ambulance officers who deal with the horrific impacts of road crashes?

Victorian public servants also have a fine tradition of union membership and in conjunction with their unions, whose office bearers they themselves elect, are skilled industrial negotiators. They are pacesetters in being awarded good working conditions and fair remuneration in return for high productivity and great dedication. The WorkChoices legislation is an attack on organised workers and will in the end undermine employers and businesses, because it will ratchet up levels of industrial dispute. The Liberal Party and The Nationals have said that the Public Sector Employment (Award Entitlements) Bill takes us back to an era gone by, but it is clear that it is WorkChoices that takes us back to the days of class war, because it is an unnecessary assault on working conditions and strengthens the hand of unscrupulous employers.

I suspect that WorkChoices will not necessarily impact negatively on workers with sought-after skills who have strong bargaining power with employers. These workers will be able to negotiate attractive conditions that include provisions for them to maintain an acceptable family and work balance. The concern is for the many workers, including the vulnerable and those with higher mortgages and debt levels, who do not have much bargaining power. The federal Sex Discrimination Commissioner, Pru Goward, spoke about this on *Lateline* last night. She warned of the difficulties that WorkChoices will in all likelihood create for low-income families, because long working hours and limited resources already make it very difficult for parents to manage work and family responsibilities. It will be very difficult for these workers to use the WorkChoices provisions to negotiate a better deal.

The economic editor of the *Age*, Ross Gittins, described it this way:

Although it —

WorkChoices —

outlaws pattern bargaining by unions, it does nothing to prevent employers presenting individual workers with identical Australian workplace agreements to sign. Although it makes it much harder for unions to organise a legally protected strike, it does nothing to hinder employer lockouts. Although employers may, should they wish to, bargain with their employees collectively, their employees may not bargain

collectively should they wish to do though their employer doesn't. WorkChoices is so one-sided it's quite mistaken to think of it as 'deregulation' of the labour market. Employers may have been deregulated but unions have been subjected to more, highly prescriptive regulation.

WorkChoices has removed protections against unfair dismissal for millions of people and created two tiers of rights: one for people employed in a workplace of less than 100 workers and another for workplaces that employ more than 100 workers. The award system has been replaced by only five minimum conditions. Penalty rates for weekend and shiftwork, overtime, allowances, career structures, public holidays, redundancy pay and meal breaks are all negotiable, which means that over time they will be got rid of. Unless an employer voluntarily chooses to collectively bargain, employees and unions will have very limited capacity to achieve a collective agreement. Under WorkChoices an employer can override an existing collective agreement simply by offering individual contracts to his or her employees. An employer can now, under WorkChoices, restructure the business and turn it into a new entity, sack the workers, ditch the existing agreement and take on new staff.

And this is exactly what happened at Cowra when an abattoir decided to sack 29 of its workers and rehire some of them on lower pay on the basis of this being necessary for operational reasons. The company withdrew the plan after the federal minister intervened. We will have to see how this plays out, but legal opinion suggests that under WorkChoices the company was within its rights to do what it did. It was the pressure exerted and the publicity given to the matter by the Australasian Meat Industry Employees Union, the ACTU and industrial lawyers that forced the tactical withdrawal after the matter was investigated by the federal government's Office of Workplace Services.

And last week Triangle Cables, a multinational cable company located at Port Melbourne in my electorate of Monash Province, was reported in the *Age* of 29 March to have sacked eight long-term employees using the new federal industrial relations laws.

They were reportedly simply told their services would no longer be required and that their employment was terminated forthwith. The workers got four weeks pay and shift penalties in lieu of notice as well as long service leave or annual leave entitlements. The *Age* reported that the workers' jobs were advertised on the day before the eight workers were served. If all this is true, we must make sure that public sector employers do not behave in this way. The Public Sector Employment (Award Entitlements) Bill is intended to do just that.

WorkChoices is a very large collection of legislative measures that is already having negative impacts on workers and on the economy, and the bill is necessary to protect Victorian public sector employees against it. The bill makes sure that public sector employers stick to the conditions set out in the award that covered employees before the WorkChoices and federal awards began. As well the bill puts in place a fairness test for all workplace agreements that cover public sector employees. This fairness test will be based on the award safety net as it existed before the beginning of the WorkChoices legislation. As the minister has said, the intention of the bill is to preserve the status quo that existed prior to WorkChoices.

This is important and positive legislation that will provide protection to a significant section of the Victorian work force — our public servants. I commend the bill to the house.

**Hon. BILL FORWOOD** (Templestowe) — It had not been my intention to speak on the piece of legislation before the house because, as all honourable members know, it is a sham. The government as the employer can employ people on whatever terms and conditions it likes. To bring this piece of legislation in today to use up the time of the house and enable some members of the government to spout their union rhetoric enables me to get up and put a different viewpoint.

At the outset I should say that I always admire the troglodytes from the other side, like Mr Viney and Mr Scheffer, when they get up and share their views with us. On this side we all know that Mr Scheffer is an unreconstructed communist and that the description Mr Dalla-Riva used in his contribution was accurate. I must say I was staggered when Mr Scheffer said we were going back to the class war and that unscrupulous employers would use the legislation to sack the heck out of everybody. If the government cares to treat its employees like that, I think it will be roundly condemned by all and sundry, because the legislation before the house today has nothing to do with the unscrupulous employers that Mr Scheffer referred to, except of course if he was referring to this employer, which deals only with public sector employment. That seems to me to be a somewhat circular argument. In any case I remain to be convinced that the sky will fall in and the class war start up again.

I actually believe that in Australia we are progressing and that progression has been caused both by some actions of the previous federal government under Messrs Hawke and Keating and lately some very good actions by the coalition in Canberra, of which this is

part. I went and got *The End of Certainty*, a book written some years ago by Paul Kelly, because I could not let this go through to the keeper. I remembered reading it some years ago. Page xxv states:

In his second-reading speech industrial relations minister Laurie Brereton declared that, 'while ever Labor remains in power employees can be assured that their conditions will be protected ... by way of the award system'.

**Hon. Richard Dalla-Riva** — Comrade!

**Hon. BILL FORWOOD** — Comrade! The book further states:

Brereton's bedrock position was that his law, 'treats as sacred the principle that flexibility should not compromise entitlements'. The reform put employee protection before international competitiveness.

We understand on this side that nothing has much changed and that the position being put forward by the poor guys opposite is that some things must never change, 'Particularly because', they say, 'we are firmly rooted in our ancestry in the trade union movement, and you cannot come in here and represent the people of Victoria, the people of Australia, because you will first and foremost always walk in that door and represent your union'.

**Hon. Richard Dalla-Riva** — As union hacks.

**Hon. BILL FORWOOD** — As union hacks — as whatever you want. I have been a member of a union — various unions. I was a member of the Australian Journalists Association. I was a member of the Administrative and Clerical Officers Association as well. I am proud to have been a union member — and an active union member.

**Hon. Richard Dalla-Riva** — Not a hack!

**Hon. BILL FORWOOD** — Never a hack. I believe that in our society there is a place for unions, but that place is not with your foot on the neck of productivity. That place is not with your foot on the necks of individual workers or individuals' rights. I am very sorry that Mr Scheffer has to leave, because I was looking forward to continuing to describe other aspects of his speech, which I will obviously have to do in his absence. It is never much fun, I must say, slugging people like Mr Viney and Mr Scheffer when they will not stick around to listen to it.

To continue, what we know — because Paul Kelly tells us — is that Australia was founded on a concept known as the Australian Settlement, and it had five planks. The first was White Australia, the second was industry protection, the third was wage arbitration, the fourth

was state paternalism and the fifth was imperial benevolence. They were the fundamental planks both sides of government agreed with from the early 20th century, after the commonwealth was established in 1901. They were absolutely the givens. Bit by bit after the Second World War as our society progressed these became somewhat looser, and now all five have in some way at some time in the last 50 years been questioned. What we know is, for example, that we have in a bipartisan way proudly done away with the White Australia policy and are now a very successful multicultural country.

What we know is that we have given away industry protection and survived; yes, our industries have changed but we have also survived. We have gone a long way away from state paternalism, and we even had an attempt to get away from imperial benevolence. I remember some people supporting a republic not all that long ago, but the one thing that is very difficult for the men and women opposite to come to grips with is to do away with wage arbitration, to do away with the club, to bring in some flexibility.

**Hon. M. R. Thomson** — To do away with fairness.

**Hon. BILL FORWOOD** — I pick up the interjection from the minister who said, 'To do away with fairness'. Minister, we would on this side appreciate you demonstrating the fairness aspects of your particular claims.

**Hon. M. R. Thomson** — The Australian Industrial Relations Commission.

**Hon. BILL FORWOOD** — I always appreciate interjections from the minister. The Australian Industrial Relations Commission is, according to the minister, the fairness. This is the old umpire argument. What we know is that the umpire argument can be better put as the old club argument.

*Honourable members interjecting.*

**The ACTING PRESIDENT (Hon. H. E. Buckingham)** — Order! Mr Forwood has the call.

**Hon. BILL FORWOOD** — Thank you for your protection, Acting President. What honourable members opposite need to realise is that as the Australian settlement has declined in the last 50 to 60 years there have been fundamental changes in the way Australians live and do business. Mr Viney said this is a fundamental shift. The last time he talked about a fundamental shift was when he was talking about the GST and how the sky was going to fall in. There are some fundamental shifts taking place as we become an

international league competitive country, and part of that needs to be some flexibility.

Whereas 20 years ago over 50 per cent of the Australian work force were members of a trade union, what do we have now? Let me tell you: it is just over 20 per cent if you include all the public servants. If you take out the public servants you are down to 14 per cent of the Australian people who volunteer to join a union. I put it to you that if you go to the large companies that have found it easier to enter an accommodation with their employees — I can think of some large corporations that have decided that the easy thing to do is to enter this sort of accommodation — and you take them out as well, you will find that you are down to single digits. You take out the public servants and the large companies where everyone is a member because the employers want to be dealing with one or two unions, you are down to single figures. What you then have is virtually no-one interested in the union movement, apart from the members opposite whose job comes because they are a member of a union movement.

**Hon. J. M. Madden** interjected.

**The ACTING PRESIDENT (Ms Hadden)** — Order! The minister is not in his place.

**Hon. BILL FORWOOD** — I do not know what it meant. In the end the WorkChoices legislation, which is being roundly criticised by members opposite, is in fact about reducing complexity and providing a fair and robust safety net of working conditions prescribed by law. It is about promoting collective and individual Australian workplace agreements, it is about having a productive Australia promoting productivity, and increasing the living standards of working Australians.

**Hon. R. G. Mitchell** — Protecting workers rights is a sham, is it?

**Hon. BILL FORWOOD** — Hang on, it is my turn. You get up and give your speech in a moment. What we have here today is the sham of this government coming in here and producing a piece of legislation about — —

**Hon. J. H. Eren** — Is workers rights the sham, is it?

**Hon. BILL FORWOOD** — Is workers rights the sham! Let me slowly take you through it. The bill before the house is the Public Sector Employment (Award Entitlements) Bill. Who is the employer? The employers are the state government and its agencies. Who tells the state government and its agencies what to do? It is the government. Unless the government is a

dreadful employer that is planning to put its foot on the neck of its poor employees then this legislation is a sham and is unnecessary. So why do Mr Scheffer and Mr Viney come in here and rabbit on about WorkChoices and the evil Howard government and poor dreadful Kevin Andrews when the bill before the house deals only with its own employees?

This is a non sequitur of monumental proportions, but far be it for me to stop members opposite getting up and rabbiting on about their union credibility connections by saying, 'I am proud to be a member of a union and I will be a union man until I die', or a woman as the case may be. I will not stop them doing it. I make the point that the Australian settlement is over and we are moving in this century towards a new horizon, a positive horizon, a horizon of freedom and flexibility and higher living standards because of the changes that we are making. The only people trying to drag us down and put us back in their box are the poor members of the Labor government. As I said, it had not been my intention to speak on this legislation.

**Hon. W. R. Baxter** — We are glad you did and we want Mr Mitchell to follow you because he had a lot to say by way of interjections.

**Hon. BILL FORWOOD** — I look forward too to Mr Mitchell's contribution on this.

**An honourable member** — Mrs Buckingham is the next speaker.

**Hon. BILL FORWOOD** — I am sorry, I am looking forward to Mrs Buckingham's contribution as well because I know it will be as considered as usual. However, Mr Mitchell — empty vessels make most noise — has had a bit to say.

**Hon. R. G. Mitchell** — Hence your loud voice.

**Hon. BILL FORWOOD** — You have a loud voice, you do, I agree.

**Hon. R. G. Mitchell** — No, put your finger in your ear and listen. I said, 'It is your loud voice'.

**Hon. BILL FORWOOD** — I was just talking over you.

**The ACTING PRESIDENT (Ms Hadden)** — Order! Interjections are unruly, Mr Forwood. Mr Mitchell will have his turn when he speaks on the bill.

**Hon. BILL FORWOOD** — Thank you for your protection, Acting President. I am not sure that I needed

it, but I am grateful for your help. Let me finish my brief contribution by saying that I am sure that the sky will not fall in, that Australia will continue to grow and be a prosperous country, and Victoria will be dragged along by the policies of the Howard government, and that we will all grow old and happy in the years ahead.

**Hon. H. E. BUCKINGHAM** (Koonung) — As a servant of the public I rise to speak on the Public Sector Employment (Award Entitlements) Bill. In this house on a number of occasions I have spoken about the new federal changes to industrial relations laws. I have done this in four members statements, and in speaking on the workplace rights advocate legislation which established the Office of the Workplace Rights Advocate. I therefore feel the need, and indeed an obligation, to speak on this legislation because the Public Sector Employment (Award Entitlements) Bill, although small at only 16 pages, is very important legislation for the state's public sector workers, and I have been one of those. More than that, this legislation shows this government's continuing commitment to preserve fair working conditions, safety nets and award conditions for our workers.

The Victorian government is a major employer. The Victorian public service employs 32 800 staff across 10 departments and 14 authorities and offices. The wider public sector employs a further 195 400 staff across 1884 employer bodies, which include agencies as diverse as Victoria Police and catchment management authorities, teachers and staff of government schools and our own staff at Parliament.

It is also important to note that 26 per cent of positions within the public service are located in regional Victoria, Mr Baxter, and 29 per cent of positions with public entities. This makes public sector employment a vitally important part of many regional and rural communities. Collectively the Victorian public sector employs 9 per cent of the total Victorian labour force and 2 per cent of the national labour force.

In this term in office the Bracks government has made a number of changes to enhance the attraction of employment with the Victorian public service and other public sector bodies. The Public Administration Act 2004 established the State Services Authority and created the new office of the public sector standards commissioner, which replaced and expanded the roles of the former Office of Public Employment and Office for Workforce Development. The stated mission of the SSA is to act as a centre for excellence for public sector improvement, to lead and engage the Victorian public sector in continually improving services, standards, governance and work force development. The office

commenced operations in April 2005. The SSA has four key roles. They are: to identify opportunities to improve the delivery and integration of government services and report on service delivery outcomes and standards; to promote high standards of integrity and conduct in the public sector; to strengthen the professionalism and adaptability of the public sector; and to promote high standards of governance, accountability and performance for public entities.

While the Victorian government has been working towards becoming an employer of choice and improving and promoting the public sector employment environment, the federal government has been introducing legislation that will undermine this and make employment in the private sector potentially treacherous for many Australian workers.

In August 2005 the Premier stated in both the media and Parliament that the government would protect the existing conditions of public sector workers and have these conditions enshrined in legislation and kept for the future. This bill requires public sector employers to continue to adhere to the terms and conditions of the pre-WorkChoices federal awards, which were passed by the federal Parliament on 2 November 2005, as a minimum safety net for their award-covered employees.

There are two major features of the bill. The first is to preserve award entitlements, and the second is to maintain the existing award safety net and the outcome of the independent umpire — the Australian Industrial Relations Commission's family provisions test case decision — as the benchmark of the Victorian public sector fairness test to replace the discarded no-disadvantage test. The bill will establish a Victorian public sector fairness test. This means new agreements will be assessed against a fairness test that is based on the award safety net as it was before the federal industrial relations changes. Public sector employers must ensure all offers and agreements pass the fairness test, which means that agreements do not disadvantage employees in relation to their terms and conditions under the preserved awards. The workplace rights advocate, an office this government has rightly established, will determine whether agreements pass the fairness test. The determinations of the workplace rights advocate will be subject to judicial review under the Administrative Law Act.

Since the WorkChoices legislation came into effect last week there have been a number of examples in the press which indicate that employers have immediately taken advantage of the unfair dismissal changes in particular. These examples reinforce the need for this

legislation. Nine workers at Triangle Cables in Port Melbourne were sacked. They were all union members and five or six of them were on WorkCover benefits. The workers found their jobs advertised on the Internet in February. While their termination letters were dated 27 March, the managing director of the company was overseas on holiday on that day and could not have signed them then. This is a fairly clear indication that the company waited until the new laws came into effect to sack these workers.

In another example 29 workers at the Cowra Abattoir were dismissed and advised that they could compete for 20 jobs at lower pay, some as much as \$100 a week less. While the abattoir employs more than the magic 100 employees, the provision allowing the sacking of workers for operational reasons can be liberally applied. As Mr Scheffer pointed out, there is still no legal test for this.

The Public Sector Employment (Award Entitlements) Bill we are debating here today is an example of what good governments do to protect the rights and conditions of workers. It provides an independent umpire in the workplace rights advocate. This will ensure agreements do not disadvantage public sector workers, and most importantly it supports the Australian Industrial Relations Commission's family provisions test case which expects employers to allow balanced work and family-fair conditions. Who in this chamber would want to argue against that?

I congratulate the Minister for Industrial Relations in another place, Mr Hulls, and his department on this important legislation and commend it to the house.

**Hon. J. H. EREN** (Geelong) — The bill before the house is yet another bill we have to have because of the mean-spirited federal Liberal-National government. It is a sad state of affairs when we have to stand here today arguing to save the people of Victoria from the excesses of the federal government's industrial relations legislation ironically called WorkChoices. It is funny that whenever we have legislation that protects citizens' rights all of the conservatives on the other side come out of the woodwork.

**Hon. Richard Dalla-Riva** — Acting President, I draw your attention to the state of the house.

**Quorum formed.**

**Hon. J. H. EREN** — I thank Mr Dalla-Riva for his attention to the house. I want to pick up on some of the comments Mr Dalla-Riva made. He basically said there are more people who are self-employed than there are individual workers. If he really thought about it he

would have worked out that the federal government's policies and the loopholes they contain actually force companies to employ people — —

**Hon. Bill Forwood** — What does this have to do with public sector employment?

**Hon. J. H. EREN** — Mr Dalla-Riva brought it up.

**Hon. Bill Forwood** — That's my point.

**Hon. J. H. EREN** — That is a discussion Mr Forwood will have to have with Mr Dalla-Riva. If he really thought about it, it would not take him long to figure out that the loopholes created by the federal government mean companies out there are asking workers to be self-employed so they can contract their services.

I would like to remind Mr Dalla-Riva, whom I believe was sacked by the Kennett government when he was in the police force and the Kennett government sacked hundreds of police — —

**Hon. Richard Dalla-Riva** — On a point of order, Acting President, I enjoy debate, but Mr Eren's allegations are getting a bit extreme. I ask him to withdraw the comment that I was sacked. I think it is offensive, and I ask him to withdraw.

**The ACTING PRESIDENT (Ms Hadden)** — Order! If the member finds the comments made by Mr Eren offensive, then the member should withdraw.

**Hon. J. H. EREN** — Acting President, I am happy to withdraw that. But the fact still remains that the former Kennett government sacked hundreds of police, hundreds of teachers and hundreds of nurses. If people recall, our platform back in 1999 was to have a decent health care system, and we have done that by putting 4000 extra nurses back into the system. We have also put an extra 6000 teachers and teaching staff back into the schools, and we are putting an extra 1400 police back onto the beat. I find it quite extraordinary that Mr Dalla-Riva, being a former policeman himself, can stand there and speak against this bill. That is a shame, because I am sure that all the public servants out there are very happy that we are introducing such a bill — just in case!

I know that Mr Forwood said earlier that this bill is a sham. That means that the Victorian Liberals do not expect to be in government for a very long time. This is not about protecting workers from us, it is about protecting workers from them if they ever get back into government — and I doubt it. Mr Forwood said it himself.

**Hon. Bill Forwood** interjected.

**The ACTING PRESIDENT (Ms Hadden)** — Order! Mr Forwood, from his place!

**Hon. J. H. EREN** — Mr Forwood said this bill is a sham.

**Hon. W. R. Baxter** — It is.

**Hon. J. H. EREN** — Here we go again. Mr Baxter said that if The Nationals ever get into government, they will axe this bill. They will repeal this legislation. I will make sure that every single police officer, every single nurse and every single teacher in my electorate hears about what Mr Baxter intends to do if The Nationals get into government.

**Hon. W. R. Baxter** — Good. But do you think they will listen to you?

**Hon. J. H. EREN** — Thank you very much for that, Mr Baxter. That is very useful.

I think what needs to be remembered is that we inherited a system that was very hard won by our forefathers and mothers, a system implemented through their battles in that era of the 19th and early 20th centuries. They fought for a fairer system so that we could all have better lives.

As I have said in this chamber before, the Howard government has done a grave injustice to the people of Australia through its ideologically anti-worker WorkChoices legislation. The legislation has been in force only — —

*Honourable members interjecting.*

**Hon. J. H. EREN** — The conservatives come out of the woodwork whenever we introduce legislation to protect people's rights.

*Honourable members interjecting.*

**The ACTING PRESIDENT (Ms Hadden)** — Order! Mr Eren has the floor.

**Hon. J. H. EREN** — This legislation has been in force for only a few days now, and already we see companies taking full advantage of it. The federal minister, Kevin Andrews — I call him the baby-faced assassin — has warned companies not to take advantage of the new laws that give companies the opportunity to sack workers at their whim, but of course that is what the WorkChoices legislation was set up to do. It was set up to give the green light to ruthless

businesses out there to have a frenzied shark attack on workers' rights and conditions.

Having said that, and I have said it before, I know that by and large a lot of employers out there are not as ruthless as some are, and they will do the right thing. In fact they are also concerned about their obligations in relation to these new laws. Unfortunately, without a federal Labor government there is not much we can do to about them, but we do not have to stand for the laws here in Victoria, not as far as this state government's employees are concerned, anyway. The Bracks Labor government is committed to protecting workers in the public sector through the Public Sector Employment (Awards Entitlements) Bill.

**Hon. D. McL. Davis** — You are slavishly reading your notes.

**Hon. J. H. EREN** — Mr Davis has just walked into the chamber. He obviously has not listened to the debate. He cares nothing about the workers. He does not care about this very important bill before the house. He just waltzes in here and sits down when he feels the need to say something. This morning when we debated his motion he was the lead speaker yet he was not here. It is very good to see Mr Davis in the chamber.

The bill seeks to preserve the existing entitlements of public sector employees. It will also maintain the existing award safety net and the outcome of the Australian Industrial Relations Commission's family provisions test case decision as the benchmark for the no-disadvantage test — —

**Hon. D. McL. Davis** — On a point of order, Acting President, I believe the member is reading slavishly from notes that were prepared for him, and I believe he should construct a proper debate rather than reading slavishly from prepared notes.

**Hon. J. H. EREN** — On the point of order, Acting President, these are the sorts of tactics that the opposition uses — —

**The ACTING PRESIDENT (Ms Hadden)** — Order! Mr Eren has been here for sufficient time to know that he cannot debate a point of order.

**Hon. J. H. EREN** — Absolutely, Acting President. Mr Davis obviously knows I am referring to the copious notes I have here, and he knows very well that from time to time even he refers to notes.

**The ACTING PRESIDENT (Ms Hadden)** — Order! On the point of order, as members in this place know, they are not permitted to read — —

**Hon. Bill Forwood** — A speech.

**Hon. J. H. Eren** — Who are you? Sit down!

**The ACTING PRESIDENT (Ms Hadden)** — Order! They are not permitted to read a speech from prepared notes.

As I am on my feet now and making a determination, I ask Mr Eren for his attention, especially given that it is his speech I am referring to. As members in this place know, it is not appropriate or permitted to slavishly read from prepared notes, and speeches are to be speeches or contributions on the bill. I ask Mr Eren to heed the rules of this house.

**Hon. J. H. EREN** — Thank you, Acting President, and I shall do so.

This bill will obviously go a long way towards protecting the rights and entitlements of Victorian workers in the public sector. Unfortunately, not all workers are so lucky. We all know and we all have read — as recently as today — about some of the effects of the changes to the federal industrial relations law. There was a story on, I think, page 19 of the *Herald Sun* today with the caption 'IR victory for workers'. The story related to the 29 workers who were sacked at the Cowra abattoir.

After what was obviously deep and meaningful consultation with the minister's department — this was attracting a lot of attention, a lot of bad publicity — the abattoir reinstated its workers. But the abattoir had actually sacked those workers and had asked them to reapply for the 20 positions that were available. Twenty-nine workers were sacked and the abattoir was asking for applications for 20 jobs. The job conditions had been changed dramatically. As a matter of fact the conditions had been changed so that some employees would receive \$200 less a week than they had been getting. It was a bit of a publicity nightmare for the federal government.

No doubt the negotiators acting on behalf of the federal Minister for Employment and Workplace Relations will be very busy over the course of the next few weeks and months. Let us see how they go when further sackings occur. Let us see whether they are going to send their team in to negotiate with companies to reinstate workers — and then maybe sack them later, when there is not so much attention on the legislation the federal government has introduced.

I think everyone would agree that these sackings were grossly unfair and show that the abattoir company was just waiting for the WorkChoices legislation to come in

to bastardise its work force. This incident has had quite a lot of media coverage, and the federal Minister for Employment and Workplace Relations, Kevin Andrews, came out and said that what happened in that situation was wrong.

**An honourable member** — I am pleased to see you are giving him credit.

**Hon. J. H. EREN** — The federal government had created that problem for itself.

**The ACTING PRESIDENT (Ms Hadden)** — Order! The member's time has expired.

**House divided on motion:**

*\*Ayes, 27*

Argondizzo, Ms	McQuilten, Mr
Baxter, Mr	Madden, Mr
Bishop, Mr	Mikakos, Ms
Broad, Ms	Mitchell, Mr
Buckingham, Mrs ( <i>Teller</i> )	Nguyen, Mr
Carbines, Ms ( <i>Teller</i> )	Pullen, Mr
Darveniza, Ms	Romanes, Ms
Drum, Mr	Scheffer, Mr
Eren, Mr	Smith, Mr
Hall, Mr	Somyurek, Mr
Hilton, Mr	Theophanous, Mr
Hirsh, Ms	Thomson, Ms
Jennings, Mr	Viney, Mr
Lenders, Mr	

*Noes, 14*

Atkinson, Mr	Hadden, Ms
Brideson, Mr ( <i>Teller</i> )	Koch, Mr
Coote, Mrs	Lovell, Ms
Dalla-Riva, Mr	Rich-Phillips, Mr
Davis, Mr D. McL.	Stoney, Mr
Davis, Mr P. R.	Strong, Mr ( <i>Teller</i> )
Forwood, Mr	Vogels, Mr

[\*Division list subsequently corrected; see page 1281.]

**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.

I thank members for their contributions to the debate.

**House divided on motion:**

*Ayes, 27*

Argondizzo, Ms	McQuilten, Mr
Baxter, Mr	Madden, Mr
Bishop, Mr	Mikakos, Ms

Broad, Ms	Mitchell, Mr
Buckingham, Mrs	Nguyen, Mr
Carbines, Ms	Pullen, Mr
Darveniza, Ms ( <i>Teller</i> )	Romanes, Ms
Drum, Mr	Scheffer, Mr
Eren, Mr ( <i>Teller</i> )	Smith, Mr
Hall, Mr	Somyurek, Mr
Hilton, Mr	Theophanous, Mr
Hirsh, Ms	Thomson, Ms
Jennings, Mr	Viney, Mr
Lenders, Mr	

*Noes, 13*

Atkinson, Mr	Hadden, Ms
Brideson, Mr	Koch, Mr ( <i>Teller</i> )
Coote, Mrs	Lovell, Ms
Dalla-Riva, Mr	Rich-Phillips, Mr
Davis, Mr D. McL. ( <i>Teller</i> )	Stoney, Mr
Davis, Mr P. R.	Vogels, Mr
Forwood, Mr	

**Motion agreed to.**

**Read third time.**

*Remaining stages*

**Passed remaining stages.**

**DRUGS, POISONS AND CONTROLLED SUBSTANCES (PROHIBITION OF DISPLAY AND SALE OF COCAINE KITS) BILL**

*Introduction and first reading*

**Received from Assembly.**

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

**DRUGS, POISONS AND CONTROLLED SUBSTANCES (VOLATILE SUBSTANCES) (EXTENSION OF PROVISIONS) BILL**

*Second reading*

**Debate resumed from 4 April; motion of Mr GAVIN JENNINGS** (Minister for Aged Care).

**Hon. D. McL. DAVIS** (East Yarra) — I am pleased to rise to make a contribution to the debate on the Drugs, Poisons and Controlled Substances (Volatile Substances) (Extension of Provisions) Bill. This is a very small bill. The purpose clause sets out very simply that the main purpose of the bill is to amend the Drugs, Poisons and Controlled Substances (Volatile Substances) Act 2003 to extend its operation for a

couple of years. This is a very short extension, and the government in the second-reading speech admits quite clearly that the bill relates to the management of those whom the police apprehend or detain who are under the age of 18 and who are suspected of recently inhaling solvents — that is, of chroming. Nothing can be said about chroming other than that it is a terrible blight on the community and the individuals involved in it and that reasonable steps should be taken to try to minimise its impact.

The Liberal Party has sought over time to implement provisions to strengthen the powers of the police to deal with these issues and strengthen the regime for management of substances that are used by chromers. As a number of members will remember, we had a bill introduced in the last Parliament by Carlo Furletti, a then member for Templestowe Province, to ban the sale of spray cans to people under 18 years of age. There is still much to commend such an approach to limit access to those substances that could be used by chromers and thereby reduce the amount of chroming that will occur. No-one should imagine that any action will be an absolute or complete step to prevent this sort of chroming or that the extension of the powers laid out in this bill are in themselves a satisfactory solution.

The government admits that the data is insufficient in this area. It admits that the first period of giving the police these additional powers was a trial, and in a sense the bill just extends that trial for a couple of years. The government is taking a very modest step with this bill. Although the opposition supports that step it believes the government has not come to grips with this issue satisfactorily. Over the period that the chroming issue has been under discussion the government could have done far more. The opposition has been prepared over that period to make a number of constructive suggestions, both going back to the time that a former member of Parliament, Carlo Furletti, moved his private member's bill and forward into this period of government.

When the first piece of legislation went through in this chamber I was shadow Minister for Health. I made the point then that I thought the government had not really come to grips with this and that we should have a watching brief on this area, which is what we have done. My colleague Mrs Shardey, the member for Caulfield in the other house, made similar comments at the time, and those comments correctly understood the government's position and pointed to the weaknesses in its approach. It is now time for the government to go back and have a better look at this. It is not enough to continue extending these powers, step by step, in an ad

hoc way. What is required is for the government to come up with a proper plan.

The extension of the current police powers to search and seize any cans found on young persons and to link up young people with an appropriate caring adult or caregiver, health service or drug treatment service, is appropriate, but it does not come to grips with the problem — for example, the bill does not make Ritalin abuse an offence, and there are arguments about that. Whether you criminalise, as it were, those issues or whether you try to take a purely public health approach to them, the two are not necessarily mutually exclusive and can be worked into a thoughtful policy that draws on the strengths of both approaches.

Under the provisions the police may not interview a person detained under this act in relation to known or alleged offences. I say that the government has to go back and have a really good look at that area. I do not think it has come to grips with it, as I have said, but in these circumstances the opposition is quite prepared to support the bill and to allow the extension to occur.

**Hon. D. K. DRUM** (North Western) — I share the view of the Honourable David Davis in supporting this bill. The sunset clause in the original 2003 act sets this provision to expire on 30 June this year. Although it would have been more pertinent and possibly better for the government to take a more definite view on this issue, we certainly support the government in extending the search and confiscation powers in the bill. I have had first-hand experience in dealing with young people in some of the youth forums that I have been holding around this state, and I have asked them if chroming is an issue or problem in their area. It is amazing how prevalent chroming is, considering we do not see a lot of it; but it is certainly going on and a lot of kids in many communities that would surprise most people in this chamber are experimenting with that type of substance abuse.

We therefore need to make it as difficult as we possibly can to purchase spray cans. I have had the experience of driving my children around because they needed a spray can for a school project. They ran into an auto goods shop but were unable to purchase a spray can. While I thought that was a little annoying at the time — I had to then park the car and go back in and purchase it myself — I realised that the shopkeepers were demonstrating the responsible serving of aerosol cans that we are looking for. It is a good sign to see that many of these retailers are refusing to sell spray cans to minors.

It is not just chroming that is a problem. While this is plainly a health-based bill we have also to look at the real problem created by graffiti. It is getting to the stage where it has now gone past being a bit of a nuisance; it is costing this state millions of dollars in trying to clean up the mess that has been left by the youth who think graffiti is art.

Last week we received a pertinent reminder of substance abuse when 14 or 15 kids in southern Queensland decided they would experiment with Ritalin. I do not know how they were all able to get so many Ritalin tablets, but reports over the news were that one youth had had 15 Ritalin tablets, and en masse these kids effectively went into a whole series of blackouts with vomiting, nausea and uncontrollable shaking. They were a bit of a mess.

**Hon. David Koch** — Acting President, I direct your attention to the state of the house.

#### **Quorum formed.**

**Hon. D. K. DRUM** — Prior to the interruption I was discussing the situation in southern Queensland last week where young people were experimenting with Ritalin — a form of substance abuse that very nearly had disastrous consequences. We have to do as much as we possibly can in this area. During the last two years there should have been ample time for the government to research the data needed to show whether the measures in this legislation go far enough. I do not think they do. I think we need to go harder and make this an offence. If children are going to be inhaling the gases out of aerosol cans, they need to realise that they are breaking the law.

We need to put more resources into it. We need to identify where the problem areas are and we need to identify the youth that are to be targeted. We need to put some programs in place and do more. What we are going to end up with now is a four-year program to monitor the effectiveness of this bill. We can really step up the work that the advisory committee is doing and make sure we are resourcing them adequately because this is a very real problem in our community. The damage that is done to the brains of these young people is something from which they may never recover. That is something that we need to be very aware of. It is not just a little bit of alcohol they are playing around with. It is not just a few cigarettes. This stuff can have long-term effects on the youth who play around with it.

As I said, The Nationals fully support this legislation being extended for another two years, but we think the government needs to move to tighten it up even further

and put some permanence into it. I hope we can put some programs into place that might start reversing the trend of substance abuse.

There is another aspect of the bill that I want to raise that was put to me very strongly on Monday of this week — that is, that these instances of substance abuse tend to go in waves from group to group and from school to school. What can be a real issue 1 minute can be gone three or four months later so that you then have no problem. Out of the blue two or three kids might start experimenting and before you know it you have 10 kids experimenting with substance abuse. We need to be ever vigilant. We need to understand that just because things are going okay in a particular environment at some stage, that does not mean we have that situation locked away.

We need to have programs running continuously and constantly warn our youth about the dangers of playing around with aerosol cans. We need to make sure that the programs we put in place will warn children at the appropriate age. We need to get it into our children's minds when they are forming their opinions and attitudes towards substance abuse. We need to work on children in those age groups.

Children are smoking, I understand, at a much younger age than we think they are. They are also drinking at a younger age than we are currently targeting. It would not surprise me — and I do not profess to be an expert in this — if the age at which we need to make sure that our children are fully aware of the dangers of substance abuse in the form of chroming is also a lot younger than the age we are envisaging.

I hope this advisory committee gets in, does its work and presents its research data to the government so that we can then tighten up this area, put some bones into this legislation and make it a bit more robust into the future.

**Hon. KAYE DARVENIZA** (Melbourne West) — I am very pleased to rise and make a contribution to the debate on the Drugs, Poisons and Controlled Substances (Volatile Substances) (Extension of Provisions) Bill and to speak in support of this important piece of legislation. I do not think there is anyone in this chamber, in fact in this Parliament, who would disagree that we need to be doing all we can to protect our most vulnerable citizens. Some of our most vulnerable citizens are young people. Others are those who are involved in substance abuse, particularly abuse that involves the inhalation of volatile substances, commonly known as chroming. As Mr Drum has already pointed out, it is predominantly young people

who are involved in this very dangerous activity, although it is not only young people.

The legislation has been in place for some time and is due to expire. This bill will enable the government to extend this legislation, which works well in protecting young people and others who are involved in chroming, for another couple of years. Members of the government believe this legislation is working. The provisions that we have put in place allow people who are suspected of being involved in chroming or who are chroming to be taken by the police and put in the hands of suitable persons. That could involve them being taken to an emergency centre or hospital, taken back to their parents or to a residential care facility, or put into a particular drug and alcohol or substance abuse program, so that these young people are not charged, interviewed by police or held in police cells. We can have an intervention at the critical time so that they can be directed to the most appropriate services and carers who are able to look after them. The data we have been able to gather so far indicates that the current legislation is working well, but we need to look at it more closely.

Mr Drum picked up on the fact that it is not people in a stable population who get themselves involved in this particular activity; it is often those in a fluctuating population. It seems to be an activity that people get involved in in a particular area, in a particular group, or in a particular school for a period of time, and then it seems to lose favour and moves on somewhere else. We want to ensure that young people know about the dangers involved in this activity and we want others to be aware of the sorts of people who are likely to be involved in this activity so that they ask questions and take action if these people come into their shops and want to purchase these volatile substances.

Of course some of these volatile substances are used by many of us every day. Also some people's livelihood involves the purchase of these sorts of volatile substances. It is important, therefore, to give information to proprietors so they are aware of the abuse of these substances, the most likely substances to be purchased for abuse and the actions they can take if they are approached by someone whom they suspect might be using these substances for that purpose. We have taken action to do this.

Mr Drum also touched on the need for programs. We have put in place a large number of programs. The government has increased state funding for drug and alcohol services by 50 per cent since coming to office in 1999. We have also increased the number of treatment beds from 431 in 1999 to 796 in 2006. There is now a very significant number of treatment beds

available. Counselling waiting times have decreased from seven days in 2000 to less than one day in 2006 — a very significant decrease. The government has reduced the waiting time for community withdrawal services by over 72 per cent and continued to keep waiting times to under 10 days. There has been a 17 per cent increase in the provision for youth treatment — that is, for 12 to 21-year-olds — and over a 100 per cent increase since 2000–01 in the number of clients treated where the primary drug of concern is ecstasy or amphetamines. These are very significant achievements that the government has made in drug prevention and the treatment of people involved in substance abuse, including chroming.

Mr Drum also raised the issue of the need for preventive programs. Most people would be aware of the Premier's Drug Prevention Council. It was established in March 2001 and has been important in ensuring that there is a focus on prevention. It has had a big say in informing the types of programs and services that have been put in place. The council brings together a whole range of experts, who provide advice to the government regarding the prevention of drug abuse, particularly in relation to high-risk youth. Community strengthening initiatives have also been delivered through projects involving cultural, recreational, creative and educational activities in local communities. We have built on a whole range of structures that already existed. Across Victoria 76 projects have been funded, including projects for Koori groups and culturally and linguistically diverse communities.

The local drug strategy project has focused on five hot-spot municipalities in metropolitan Melbourne to address the impact of street-based drug use. These include Maribyrnong, which is in my electorate, Melbourne, Greater Dandenong, Port Phillip and Yarra. The project has been funded to respond to local concerns about illicit drug use. The project involves developing a drug action plan, and there has been a lot of consultation with the community on that. We have put in place a whole range of services specifically designed to respond to the needs of young people up to 21 years of age. This includes youth outreach workers; a youth alcohol and drug day program; youth residential rehabilitation services, with 24-hour staff; youth residential withdrawal services, which involves short-term intensive programs so that young people who need to withdraw can do it safely; youth peer support; youth counselling; and youth supported accommodation.

To take up Mr Drum's point about the need to look specifically at youth, that is one of the areas our government is looking at. We are not only looking at

it but are putting in place a whole range of initiatives, both on a preventive level and in terms of providing services and programs. Members would all be aware of some youth-focused campaigns, such as the binge-drinking campaign that was targeted at 15 to 16-year-olds and tertiary students, the party drugs campaign to raise awareness in pubs and clubs that there is no safe level of use for GHB, or gamma hydroxybutyrate — I guess if you have not been hanging out in pubs and clubs you would not be aware of that, but we are out there where young people are, trying to get the message across to them — and the illicit drug awareness and community education campaign targeting the quite young people Mr Drum is concerned with — the 15 to 18-year olds — focusing particularly on cannabis, ecstasy and heroin. The government has also delivered a code of practice for arranging and holding safe dance parties and voluntary water guidelines promoting the provision of low-cost water in licensed premises.

Our government believes very much that we need to keep our focus on young people, particularly when it comes to chroming, which is a very dangerous activity. We believe by passing this bill today to extend the life of the Drugs, Poisons and Controlled Substances (Volatile Substances) Act 2003 we will continue to protect some of our most vulnerable people — young people who use and abuse drugs.

It is a very good bill which will protect people. It will make sure there is intervention at an early stage or at a stage when a crisis might occur, and that those involved can be directed to the most appropriate service provider or the most appropriate carer as well as being given counselling and advice about the harm and the need to desist from that activity. We will be collecting more data and building on the work that has already been done. The committee and council are in place to do that, and they will continue that work and report back to us. The bill deserves the support of all members of this chamber. I commend it to the house and wish it a speedy passage.

**Motion agreed to.**

**Read second time.**

*Third reading*

**Ms BROAD** (Minister for Local Government) —  
By leave, I move:

That the bill be now read a third time.

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

**Motion agreed to.**

**Read third time.**

*Remaining stages*

**Passed remaining stages.**

## BUSINESS OF THE HOUSE

### Division list

**The PRESIDENT** — Order! It has been drawn to my attention that in the division on the second reading of the Public Sector Employment (Award Entitlements) Bill the Honourable Damian Drum was present in the chamber and voted with the ayes but was not recorded on the division list. Mr Drum has confirmed that he voted in the division. I have therefore directed that the division list be corrected accordingly. The result of the division on the second reading of the bill is therefore ayes 27, noes 14.

**Hon. Bill Forwood** — On a point of order, President, I am very disappointed that the new system that has been trialled in this place three times thus far has already succumbed to the inability of the clerks to tick the box. I hope that it is not symptomatic of what is likely to occur in the future.

**The PRESIDENT** — Order! There is no point of order. The honourable member is a member of the Standing Orders Committee, and he is well aware that it is the responsibility of the tellers to count the heads and the ticks.

**Hon. Bill Forwood** — They did and they got it wrong!

**The PRESIDENT** — Order! They did, and there was an error. I have directed that it be rectified.

## SUSTAINABLE FORESTS (TIMBER) (AMENDMENT) BILL

*Introduction and first reading*

**Received from Assembly.**

**Read first time on motion of Ms BROAD** (Minister for Local Government).

**DISABILITY BILL***Second reading***Debate resumed from 4 April; motion of Mr GAVIN JENNINGS (Minister for Aged Care).**

**Hon. P. R. Hall** — On a point of order, President, before the second-reading debate begins I seek clarification about the process that will be involved with the progress of consideration of this bill. This is the first piece of legislation where the minister at the table, in this case the Minister for Aged Care, has moved that at the conclusion of the second-reading debate the bill be referred to the Legislation Committee, so it is new and uncharted ground on which we are travelling in terms of a process to consider this legislation.

I seek clarification on two matters. First of all, when and how members will be notified of the scheduled sittings of the Legislation Committee, because it is quite conceivable that the second-reading debate on this bill will be finished this evening and theoretically it is possible that the committee would therefore be in a position to begin deliberations on this bill tomorrow, Friday, Monday or Tuesday of next week. I want to know when and how members will be notified of the scheduled sittings, not just the members of the committee but members of the chamber because as we all know, when the Legislation Committee sits members of the chamber are invited to participate fully, except that they do not have voting rights. Certainly members like members of The Nationals, who may have to travel down from the country, need some timely advice about the scheduled meetings of the committee. The first point I seek clarification on is how and when all members of the Legislative Council will be advised of the scheduled meetings of the committee to deliberate on the Disability Bill, and I understand also later on the Education and Training Reform Bill.

The second point I seek clarification on is the ability of the committee to hear from expert witnesses. This morning my colleague Mr Drum gave notice that on the next day of meeting he will move to call three expert witnesses to the Legislation Committee to provide some expert evidence on the Disability Bill. My understanding of process is that the notice of intent to move a motion goes to the bottom of general business, and because there is no scheduled time for us to consider general business on a Thursday it would only be by leave of the government that consideration of that motion could be brought forward to tomorrow. My informal discussions with the Leader of the Government suggest that the government is not

prepared to give leave, and therefore there will not be an opportunity to call an expert witness to the committee's consideration of this bill. I think that is a great shame. The Disability Bill is a large and complex bill and people of the calibre of Margaret Ryan, Jean Tops and Max Jackson — the three people referred to in the motion — would have provided some valuable advice to all of us in our consideration of this bill.

I seek clarification on whether it is the intent of the government to not allow expert witnesses to come before the committee unless it be at the request of government members. If that is the case I think it is unfair. I want to know whether the government would reconsider and allow debate on the motion to call Margaret Ryan, Jean Tops and Max Jackson as expert witnesses to the deliberations of the committee on the Disability Bill, and further I would like some explanation as to how expert witnesses are going to be considered in future deliberations of the Legislation Committee.

**Mr Viney** — On the point of order, President, and for clarification, I concur that this is a new process for the Legislative Council. It has been discussed at length both by the Standing Orders Committee and in this chamber when the sessional orders were introduced. It is important to recognise that this committee is not an investigatory committee. It is not a committee based on establishing policy or policy options for executive government. It is a committee that exists to consider the legislation in detail, clause by clause, similar to the committee of the whole going through the legislation that has been referred to it, as the sessional orders show.

The government does not have the view that in all cases there will be a need for witnesses. In the future there may on occasion be a need for witnesses, but we are doing this as a trial to see how it works, and the government does not have a view that we should be opening this up to public hearings with extensive witnesses and so on. The government, just like everyone in this chamber, is working through the processes of how this might work, but it is a genuine commitment on the part of the government as part of the reforms of the Council to have this house scrutinise legislation in its role as a house of review.

We believe the Legislation Committee will enable us to do that in a more relaxed manner than the committee of the whole and with more time, because as we all know, the committee of the whole needs to deal with legislation in the week it is before the house, and therefore there is often the time pressure of other legislation to be considered. What this does is take it out of that time commitment and give us the

opportunity to meet over a longer period of time. It will be very much in the hands of the committee, and as chair I can advise all members of the house that it will be my view that we ought to give as much time as we can appropriately for the committee to properly consider legislation. Obviously that is not *carte blanche* for things to be debated for days on end. We have some time constraints — two sitting weeks or four calendar weeks, whichever is the sooner — and it will be important for all of us on the committee and members of the Legislative Council who attend the committee to be cognisant of those time requirements and to assist the committee to carry out its considerations as expeditiously as possible.

I am not in a position to explain the notice that members of the Council should be given. I understand the President will probably make some comments on that. I have been talking with the clerks and members of all parties about options for times and trying to facilitate this, and we are also accommodating ministers. I can inform the house that it is possible that one of the lower house ministers will be prepared to assist the committee. That is a new development, and it is part of our commitment to the trial of this process. I hope all members on the committee and members of this house will exercise a bit of forbearance, if you like, in trying to accommodate everyone's interests as we bed down this process. As chair I am committed to giving the committee the time it needs to properly consider the bill within the time constraints the house has established in the standing orders.

**Hon. Bill Forwood** — On the point of order, President, I wish to add a few words to those of the committee chair. As honourable members know, I am deputy chair of the Legislation Committee. At the outset I should say that my view is that the purpose of the committee is to end up with the best legislation possible. That will be done through cooperation as much as anything.

In relation to the issue of how and when members will be notified, I understand it will be through a process to be developed, but the intention is that we accommodate as best we can the people who are interested in the particular pieces of legislation that are being referred to the committee. I would anticipate that despite the time constraints we are faced with through the standing orders, we will do what we can to ensure that people who have to travel are accommodated when we plan our sittings.

My understanding is that there will be a meeting of the committee tomorrow. We will have a big debate about it some time soon. The clerks have the view that only

those members appointed by the Council can attend tomorrow's deliberative meeting, but I will be suggesting tomorrow that we suspend standing orders. If we are not able to suspend standing orders, I will suggest to the committee tomorrow that we resolve to close the formal meeting and invite any other member of the Council who wants to be present to attend. Once we have sorted out what we want to do, we will open the other meeting and get there in the end. What I am confident of is that, with goodwill, we will be able to sort out that aspect of the way the committee will operate.

**Mr Viney** — Hear, hear!

**Hon. Bill Forwood** — Thank you. I note that the chairman agrees with me. If necessary, we will bring the standing orders back here and fix them up.

On the second point, which I think is also a matter of some importance, I note that under standing order 52(3):

The minister, minister representing or such other persons nominated by the minister or member in charge of the bill may give evidence to the committee.

There are more ways than one to skin a cat. It may well be that, as we are about to do the very first bill, the government does not want to enable the Council now, before the committee has ever met, to open up the matter of the calling of witnesses. I do not believe that will stop either Mr Drum or me as members of the committee from moving that either we invite the minister to invite these people on our behalf or we resolve to ask the Council to meet in order to enable us to achieve the same result, because standing order 55(2) says:

The committee may resolve to request an extension to the time for reporting ...

So we have the capacity to extend it if we need to in order for us to get to 52(4), which states:

The committee may only call other persons or send for documents and other things if authorised by the Council.

Tomorrow will be the first time this committee will have met. It is meeting with goodwill in an attempt to facilitate the production of the best legislation possible. I have absolute confidence that the chair and other members of the committee are approaching the committee with that in mind. While none of us today can be certain about what will happen in the weeks ahead, I for one will be approaching this in an optimistic and proactive way with a view to achieving the best results possible.

**Hon. D. K. Drum** — On the point of order, President, I concur with what both Mr Hall and Mr Forwood have pushed in this instance. The main point I wish to raise is that we have known about the bill for about five to six months, and it has caused an enormous amount of angst in the community.

**The PRESIDENT** — Order! The issue is what was raised by Mr Drum's leader. This is not an opportunity to debate the merits of the legislation that has been referred to the Legislation Committee.

**Hon. D. K. Drum** — The importance of the legislation has every chance of slipping through the cracks if we are not able to call these expert witnesses.

**The PRESIDENT** — Order! That is not part of the procedure of the house.

**Hon. D. K. Drum** — Mr Viney said this is not an investigative committee. In a sense getting to the bottom of legislation is very much an investigative process. We need to be able to take the legislation apart and ensure that we give the state the very best legislation we possibly can.

**The PRESIDENT** — Order! Taking the last comments first, that is a procedure of the house during the committee stage either through the Legislation Committee or the committee as a whole. That has not changed as a result of the establishment of the Legislation Committee.

With respect to the comments made by the Leader of The Nationals, I put on the record that the house resolved yesterday that at the conclusion of the second-reading debate of both the Disability Bill and the Education and Training Reform Bill, the bills would stand referred to the Legislation Committee. In response to the member's query about how information about the proceedings of the Legislation Committee will be conveyed, I advise him and other members of the house that as a matter of practice, when a bill stands referred to the Legislation Committee the notice paper will list the bill or bills under the heading 'Bills referred to Legislation Committee' and will include the date on which the bills stood referred.

In accordance with sessional order 48, which requires that all members of the Council be notified of the days and times that the committee will meet to consider the bill, and in accordance with sessional order 46, which requires that all members of the Council be notified of substitutions of committee members, the clerk's office will send an email to all members with these details. Details of the Legislation Committee, including its

reports to the house, will also appear on the Parliament web site on the Council committee page.

The matter that was raised by the Leader of The Nationals on the motion put this morning by Mr Drum is a matter for the house to determine. It is not a matter for me to make a comment or ruling on or to give any clarification on. The house will determine what it does with that motion.

With respect to one of the points raised by the Honourable Bill Forwood, sessional order 48 states that when a committee is reviewing legislation it will be open to the public and to all members of the chamber. When it is not reviewing legislation it will be open only to the members of the committee. That is what the sessional orders say and that is the way the committee will operate. If the committee has to adjourn and then come back, so be it, but while it is deliberating on how it will operate only members of the committee will be entitled to participate in that deliberation. I hope that clarifies the situation and answers some of the questions that have been put before the house. We will now resume the debate.

**Hon. BILL FORWOOD** (Templestowe) — The purpose of the Disability Bill as outlined in clause 1 is :

The purpose of this act is to enact a new legislative scheme for persons with a disability which reaffirms and strengthens their rights and responsibilities and which is based on the recognition that this requires support across the government sector and within the community.

It also has the fundamental effect in clause 222 of repealing the Intellectually Disabled Persons' Services Act, the Intellectually Disabled Persons' Services (Trust Money) Act, the Intellectually Disabled Persons' Services (Amendment) Act and the Disability Services Act. The bill is repealing the existing acts and introducing a new one to replace them.

This bill is about people, and in the end the overriding concern that we must have is to ensure that what we do is provide the best possible outcome for every person who will be caught up within the purview of an act that extends to 230-odd pages. Those are not just people with a disability but their families, friends and carers will also be affected. It will also affect a raft of government and private sector organisations and including, for example, people from the mental health sector and the residential tenancies sector. There are many people who will be caught up through the clauses in the legislation. All of them expect us as legislators to arrive at the best possible outcome we can. This is about people.

I received a letter yesterday from Margaret Ryan, which I wish to read. It says:

When you rise to speak on the Disability Bill, what you say, and what your parliamentary colleagues say, will have profound consequences for me and my family. In my family there is a teenage boy who cannot talk, who cannot walk or sit, who receives food and water through tube feeding, is in nappies, and who is alive and has a life worth living only because of the hour-by-hour sacrifice, love and dedication of his mother and father.

This teenager is one of Victoria's 64 400 sons and daughters with severe and profound disability living with a parent who provides hands-on support and assistance. What you have to say, and what your parliamentary colleagues say, will have deep personal consequences for all these parents and families, and the parents and families of yet-to-be-born babies with disabilities.

I have been in contact with you on these issues since you were a member of the ministerial task force on disability in December 1994 when you were swamped with my concerns about kindergarten education and early intervention for preschool children with disabilities, the newborn to six-year-olds. The now teenager was then a preschooler. You have since been constantly made aware of the myriad of developments and issues and reforms in disability at household, local, state, national and international levels.

I know that you are aware of the grievous failure of public policy to address many of the critical issues of daily living for children and adults who are disabled and for their families and carers.

I remind you of the profound and transparent thoughts of the 10-year-old who wrote a letter to God, 'Dear God, I have a question for you. Why do people die? It is not fair that people have to die. My brother is disabled. I want to know if my brother will die when he is young. If he does, I will be an only child. I don't want to be an only child. If he lives till when he is older, my parents will be too old to look after him. Does that mean that I will have to look after him? I want to look after him so that he will be well, but then I will spend most of my life looking after him. I wouldn't like that. What will I do? What will happen?'

The letter finishes by saying:

The bill before the house sets out what will happen in Victoria's disability services for upwards of the next 20 years. What you and your colleagues say and do now will determine whether or not people with disabilities and their families are given better lives.

The Disability Bill has caused controversy and disharmony. It is subject to significant challenge from different perspectives. It does not have the bipartisan support which has been given to the existing legislation.

At this time we ask that you and your colleagues share the love we have for our disabled and non-disabled children. We pray that your hearts may be full of grace. We hope that wisdom and truth will prevail. And if it takes time for peace, equity, justice and bipartisan support to be established for Victoria's disability legislation, please take all the time you need.

None of us could put the case better than that. It is for that reason that I was absolutely delighted with the initiative Mr Lenders brought to the Standing Orders Committee for the establishment of the Legislation Committee. As honourable members in this place know, there has been an extraordinary push from many people in the disability sector for this piece of legislation to be got right. I have a small list; I will not go through them all but I have received letters from so many different people. I have letters from the Victorian Council of Social Service, the Kew Cottages Parents Association, the Transport Accident Commission, the Gippsland Carers Association, the Tenants Union of Victoria, Mr and Mrs Tregale, Autism Aspergers Advocacy Australia (A4) and Wendy Keifel, from the Mental Health Legal Centre Inc., Max Jackson, the Council of Intellectual Disability Agencies and Margaret Ryan. All sorts of people are asking that this legislation be held over and got right. That is the crucial thing.

They all have different perspectives on different bits of the legislation, but none of these people are saying not to do this. They are saying that this is a once-in-a-generation chance of ensuring that the groundbreaking legislation from 1986, when the Intellectually Disabled Persons' Services Act was brought in, is enhanced and updated for the future. They are not saying, 'Do not do this.' What they are saying is, 'Let us do it but get it right.' Later in my contribution I will go through some of the concerns people have about this particular piece of legislation.

I received a letter yesterday — I am on a few mailing lists — from Rosalie Trower, OAM. Those of us who have an interest in disability know of Rosalie's extraordinary efforts in this field, particularly in relation to Kew Cottages. She wrote to me and said:

It is some time since I last wrote to you about the concerns that I and many families have for the future of our severely intellectually disabled sons and daughters with multiple disabilities.

Now we are confronted with a new grossly inadequate Disability Bill which strikes despair in many hearts as we foresee a bleak future for many disabled people. The Kew Cottages Parents Association's newsletters of February and March clearly highlight the gross inadequacies of this new bill.

I am now an old lady. I have long struggled down many different paths for 50 years always fighting for a fulfilling life and better appropriate services for my dear son and his very dependent mates. I have worked hard at many levels, begged, cajoled, written endless letters and articles, attended conferences, been interviewed times without number and so on. Occasionally there has been a small degree of success but mostly none where it most counts, but always with the

support of those families of people with very severe disabilities.

But now I can no longer charge down those difficult and treacherous paths. However, I want to go to my grave knowing that Victoria has the best possible legislation which honours and respects the rights of families to determine those important life issues such as accommodation choice for their loved ones. Surely this is not too much to ask from any government of any persuasion.

Bill, I therefore strongly urge you to ensure that this new harmful bill goes before the Legislation Committee of the upper house. If you so wish, please pass this letter on to your parliamentary colleagues.

I have done that in this manner. She is absolutely right. She is talking about knowing that Victoria has the best possible legislation which honours and respects the rights of families and the disabled themselves.

I have absolutely no doubt that that is the desire of the government. I have absolutely no doubt that it is the desire of The Nationals and I stand here and say there is no doubt that it is our desire as well. We have unanimity of view about Victoria maintaining its status as having the best legislation available. That is what the Minister for Community Services, Ms Garbutt, in another place said in her second-reading speech. She said that in 1986 we had leading-edge, groundbreaking legislation, and she was right. We were the envy of the world. There were some problems with it. As an aside let me say that one of the problems was we did not do what it said. When I was on the intellectual disability task force in 1994 I kept saying, 'Hang on, this says we should have a state plan every three years'. Section 15(1) of the act states:

The Minister must ensure that there is prepared at 3 year intervals a plan for the development of services for intellectually disabled persons in Victoria.

It goes on to detail in section 15(2) what a state plan must do and says the state plan should be reviewed annually and where appropriate. In the committee I was on I kept asking, 'The act says this, how come we are not doing it?'. I see a nod from an honourable member opposite. If there is legislation that tells the government to do something, of course it should do that, but it did not. As everybody knows, what we have before the house now is a state plan that goes for 10 years from 2002 to 2012. This is in contravention of the existing act, although the bill deems it to be in accordance with it. It then says that in 2013 we will have a new state plan. I do not object to that. However, I think that if we are going to repeal this act and the Disability Services Act it is important that we ensure that what we are bringing in is better. There does not seem to be any unanimity on that issue at all. I will later on go through some of the reasons I think that is the case.

I refer to page 11 of the existing Intellectually Disabled Persons' Services Act and section 5, which is headed 'Statement of principles'. Paragraph (j) states:

it is the responsibility of the State of Victoria to plan, fund, ensure the provision of and evaluate services to intellectually disabled persons according to the principles stated herein ...

Nothing could be clearer — 'plan, fund, ensure the provision of and evaluate services according to the principles herein'. If we are going to repeal that provision, someone needs to show me where in the new bill that provision is preserved or enhanced or replicated. Unless someone can show me where the responsibility of the state of Victoria to plan, fund, ensure and evaluate is in the new bill, we are not enhancing the legislation to bring us forward into the years ahead. Without such a provision we are taking away something that is a cornerstone of the original act.

**Hon. P. R. Hall** — We are sidestepping our responsibilities.

**Hon. BILL FORWOOD** — Sidestepping our responsibilities. As Mr Hall says, this is our responsibility. We are the legislators. In the end it does not matter what the department says, it does not matter what parliamentary draftsmen draft, it matters what we pass through this place. It is for that reason that I was enthusiastic about the proposal Mr Lenders brought to the Standing Orders Committee to establish the Legislation Committee.

A cynic, which I have been accused of being but I am not, would say this has happened because in the next Parliament it is possible that the numbers might be tight and we will need a system that will enable the Council to put a bill off to be studied without disrupting the ongoing, day-to-day work of the Council. This forum of six members nominated by the Council, as near as possible in proportion to the numbers in the house, is a good way of providing a situation where there can be the give and take required to ensure that legislation in those times of tight numbers will be able to progress sensibly.

Honourable members here, and Mr Baxter in particular, will remember the days when the government did not have the numbers in this place, and for contentious legislation to be passed there was argy-bargy. The classic example was the legislation that established VicHealth. There were extraordinary negotiations behind the scenes which led to the implementation of that piece of legislation, which has served Victoria well.

I am delighted that I can speak here today knowing that this piece of legislation is going to the committee under

the system we are trialling. There is no doubt about it; we have resolved as a house that this piece of legislation will go to the committee. There is no doubt that in these circumstances we have the capacity to work through the issues in that forum and come to the best result possible, which is what Rosalie Trower has asked of us and what Margaret Ryan suggested in her letter to me. In the end we have the capacity to do that.

In the other house the opposition and The Nationals moved a reasoned amendment seeking to delay the bill for three months. That got rolled — and I am not surprised — but even if it had been passed, there was no guarantee that anything would be done in the three-month period during which the bill was adjourned. What we know here is that this piece of legislation is going to go to a committee of six members with a lot of goodwill, a committee on which Mr Drum and I will be serving. Members in this place who have been here a while will know that Mr Drum and I have an interest in this topic, and they know that there will be the opportunity for us to deal with issues on a clause-by-clause basis.

Sessional orders 42 to 63 are now available, and sessional order 52 very clearly sets out the procedure for consideration of a bill. It states:

- (1) The committee must consider each bill in the following order:
  - (a) clauses separately and in numerical order;
  - (b) proposed new clauses;
  - (c) the schedules separately and in numerical order;
  - (d) proposed new schedules;
  - (e) the preamble (if any);
  - (f) long title;
  - (g) short title.

As I mentioned during the discussion on Mr hall's point of order on how it will operate, sessional order 52(3) says:

The minister, minister representing or such other persons nominated by the minister or member in charge of the bill may give evidence to the committee.

It will be recorded by Hansard. It is going to be done in public, probably in this chamber, and what I will be looking for in that committee is the capacity for me or other members of the committee to say, 'I have received this communication, which states this. What is the response? How does the bill affect that?'. There are so many examples I could use which have been given

to me by the people whose names I read out when I was talking about various aspects of the bill. One of them, for example, goes to the definition of 'disability'.

If you turn to the bill and look at the definitions clause on page 4, you will see that it gives a particular definition:

“**disability**” in relation to a person means —

- (a) a sensory, physical or neurological impairment or acquired brain injury or any combination thereof, which —
  - (i) is, or is likely to be, permanent —

et cetera. Members can compare that with the existing definition in the current Intellectually Disability Services Act. I cannot find it at the moment, but it is very similar. The point I am trying to make is that in the period since the original act was passed considerable thought and work has been put into such definitions, and now we can get various definitions of the word 'disability' from sources such as the Productivity Commission, the Australian Institute of Health and Welfare and from international work as well. Not all of them would agree with this definition, so one of the things the committee could do if it wished would be to explore the definition of 'disability', because a whole lot of other things throughout the bill will later rely on that definition.

I am delighted that the committee now exists and that it will have the capacity to consider in real detail the legislation that is before us. Hopefully we will get a better outcome for the people whom I spoke about at the beginning of my contribution to the debate, the people who are most affected by this legislation: disabled people and their families and carers.

I will touch on some of the issues to do with disability and how the bill actually works, but before I do so I want to put on the record some statistics. I have here the *Disability Support Services 2003–04* document produced by the Australian Institute of Health and Welfare, which gives national data on services provided under the commonwealth-state-territory disability agreement.

I seek the leave of the house to have a table incorporated in *Hansard*. I have circulated it and have the agreement of Hansard and the Leader of the Government — everybody but The Nationals, whom I forgot to ask — and I am happy to make this document available.

*Leave granted; see table page 1314.*

**Hon. BILL FORWOOD** — It is headed ‘Current disability statistics’ and relates only to Victoria. At the bottom it says:

Table prepared by Bill Forwood, from information extracted from the Australian Institute of Health and Welfare: disability support services 2003–2004.

There are a number of tables from which this has been extracted, but it is all available in the document. What I think is interesting — and bear these statistics in mind in relation to the bill before the house — is that with regard to accommodation, in Victoria the number of service users is 12 989 out of a potential population of about 165 000. In other words there are 78.6 users per thousand of potential population. By any measure there is a significant unmet need.

Turning to community support, the number of service users is 28 485 out of a potential population of about 165 000. As regards community access, there are 18 441 out of a potential population of about 165 000 or 112 service users per 1000 of potential population. In respite there are 8607 service users out of a potential population of about 51 000 or 168 service users per thousand of potential user population. Employment is better, with 18 283 service users out of a potential population of about 80 000 or 231 service users per thousand of potential population. All of these statistics indicate the extent of the issue. Members do not need me to stress this fact.

The Disability Advisory Council of Victoria is chaired by Rhonda Galbally, whom many of us know well, particularly from her time on VicHealth. Page 2 of her submission to the legislation review unit of the Department of Human Services disability services division states:

In Victoria there are 992 300 people with disabilities, of that 494 100 are aged between 25 to 54 years. The disability rate increases with age from 4 per cent of children with a disability to 41 per cent of people aged 65 to 69 and 92 per cent of people 90 years and over. Policy needs to be developed to encompass whole-of-government action, importantly taking account of the ageing population. Currently only 45 000 people with disabilities access services provided by the disability service division of the Department of Human Services. This means that well over 90 per cent of Victorian citizens with a disability do not have a relationship with disability services.

I just want to put this in the context of the bill before the house, because what the bill before the house does is prescribe the relationships people have with the Department of Human Services, with service providers and — would you believe it? — with their own families. One of the things about the current act — the

Intellectually Disabled Persons’ Services Act — is that its statement of principles at section 5(o) says:

... families of intellectually disabled persons have an important role to play in supporting, and encouraging the development of, a family member with an intellectual disability.

The current act recognises the role of families and their:

... important role ... in supporting, and encouraging the development of, a family member ...

The task force report the member for Brighton in the other place, Ms Asher, and I were involved in producing such a long time ago — 12 years ago now, back in 1994 — was produced with terrific assistance from members of the bureaucracy at the time. I travelled through country Victoria with Judy Hind. We visited Stawell and Woodbine and other places. The recommendations were:

That clients, parents and advocates be extensively consulted about the deinstitutionalisation of their family members/clients.

Often what happens — and I tell members this without fear of contradiction — is that the families seem to get in the way of the service providers or the Department of Human Services. Sometimes, despite the best will in the world, you have situations where the position of the bureaucrats is considered ahead of the feelings of the families. Unless we can demonstrate that the current bill preserves the rights of families and provides support for the rights of families, we are in danger of doing away with something that is effective and replacing it with something that is not quite as good.

I have absolutely no problem with the focus being on the rights of the individual. We should do everything we can to ensure that those individuals are treated in the same way as the rest of society’s members and that they have the same rights and responsibilities as the rest of society’s members. But I know of disabled people whose capacities are somewhat limited and who, without the support of their families and carers, have no capacity for any quality of life at all — and some of these people have been on waiting lists for extraordinary periods of time. Some are also in the category that Rosalie Trower speaks about — people who have been looked after for 50 years by family members who are now getting very old and are very tired and who do not know what to do. Frankly I do not want to be in a government when 500 or 1000 very old people take their now middle-aged or old disabled children to the Department of Human Services and say, ‘Sorry, your responsibility — we cannot cope any more’. That is where we are going.

As I said, members can go back to the 1994 report and they will see that in 1994 we were talking about the same things we are talking about today. The same issues still need to be dealt with. As I have said in this place before, it is not necessarily about throwing money at the issue — although I, like everybody else, think there needs to be more funding in the sector — but about planning and about finding one's way through the morass.

What concerns me most about the process to date on this legislation is that a raft of people have been putting forward suggestions and ideas about how we should progress this whole system and further the rights of individuals in the future and that those people have not been listened to to the extent they should have been. Hopefully they will get an opportunity one way or the other through the process of the Legislation Committee to make a contribution for the future.

One such person is Max Jackson. I first came across Max in the middle of the 1990s when he was the director of the southern region of the Department of Human Services. He is better known as having been the head of Kew Cottages, as it was then known, for nine years. His CV is impressive. He was on Araluen's board and he was the immediate past chair of Special Olympics Victoria. He has particular skills. To the best of my knowledge he does not have family members with disabilities, but he has been involved with this sector for a very long time in his working life, and he still operates in the area.

He put in a submission in relation to the bill before the house that I plan to go through in a little bit of detail in a moment. What I want to share with the house is an exchange of emails that he and I had. I wrote to him a couple of days ago and said:

Max, I am currently writing my speech for the debate next week. I am very keen to be accurate about what I say about the consultation process'.

On 23 December ... you forwarded to me your 24-page detailed analysis and response to the exposure draft paper. What I am very keen to know is the fate of that document.

Did anyone meet with you? Did someone actually sit down with you and discuss the issues that you raised one by one?

Was there genuine dialogue about addressing each of the matters which you raised? Did you get a detailed response in writing?

I look forward to hearing from you.

This is the response I got:

Although my response went into DHS on 23 December 2005 I was contacted by them in January to say they had not

received it — apparently they had been alerted to it by someone else, which is how they knew about it.

I resubmitted immediately and confirmation was received of receipt. But, in answer to queries:

no meetings

no requests/suggestions for a meeting

no discussions of any type, let alone 'detailed dialogue'

no response in writing.

That is disappointing. I am pleased that we now have the capacity through the Legislation Committee to explore some of the issues he raised, which I will detail in a moment.

I can now put this document down and pick up the submission from the Tenants Union of Victoria, which deals with the rights of people in community residential units according to tenancy law. Let me as an aside tell the house that when I was doing the report in 1994 I asked why these people should not have rights under the Residential Tenancies Act, and I was browbeaten, cajoled and ultimately persuaded that it was not a good idea because it made life difficult for the department. What every person interested in this field now knows is that in 2004 the Minister for Community Services in the other place, the Honourable Sherryl Garbutt, gave a commitment to the sector that those rights would be given to disabled people. Guess what happened? I assume the same bureaucrats who got to me also got to her, and it did not happen.

Equally, I can pick up the correspondence from the Tenants Union of Victoria and quote its response to me, which was, 'No, none of the suggestions we made to the government were adopted either'. Or I could go to the document prepared by the Council of Intellectual Disability Agencies (CIDA) and pick up the submission by Sue Jackson, the chief executive officer (CEO). I make the point that Margaret Box, who was the then CEO of CIDA, was on the committee with which the member for Brighton in the other place, Louise Asher, and I also worked in 1994. Sue Jackson said that she met with Arthur Rogers on 25 January and they discussed a number of the 45 recommendations in CIDA's response. She detailed to me the government's response. She said they agreed at that meeting that:

Arthur would arrange a further meeting with me to discuss in more detail CIDA's recommendations, especially those related to individual planning and access to services. This further meeting did not take place. Ultimately I received a phone call from Arthur Rogers advising that he had just received back from parliamentary counsel a voluminous document which the department was working through. However, as the bill would be introduced into Parliament the following week there would not be time for further

amendments before its introduction. We have not received a detailed written response to our recommendations.

This is the peak body. It made 45 recommendations. I know this government has on the record the process it has followed the whole way through in arriving at the bill before the house. But what it has not done to my satisfaction or to the satisfaction of the raft of people to whom I have referred is explain why it chose the path it did instead of undertaking some of the suggestions that were made to it. That is what the Legislation Committee will give us the capacity to do. I really look forward to going through that.

**An honourable member** interjected.

**Hon. BILL FORWOOD** — I am afraid an hour is not nearly enough, and I apologise to all the people who provided me with the information that I am not going to get a chance to use today. Let me turn to what Max Jackson said in his submission. His submission argues the case for a total overhaul of the draft bill and gives seven tests: The submission says:

This is argued on the basis that the efficacy of the legislation will not be judged on the length of consultation, the documentation that went before it or the speed with which the bill is progressed through Parliament. But it will be judged on one real test — does it truly commit the government of the day to funding and supporting the needs of people with a disability and protecting their rights?

I do not have a problem with that. I think we all agree with that. It is about having the best legislation possible. His submission continues on with his seven tests. It says:

Test 1 — A commitment to funding

Should disability legislation commit the government of the day to funding the service needs of eligible people with a disability?

**Hon. D. K. Drum** — Yes.

**Hon. BILL FORWOOD** — Yes.

**Hon. D. K. Drum** — Does the bill do it?

**Hon. BILL FORWOOD** — No. The submission goes on:

Test 2 — A commitment to a right to service —

I talked about this earlier —

Should disability legislation establish, for eligible people with a disability, a right to service?

Yes, and the current legislation does. Does the draft bill do this?

**Hon. D. K. Drum** — No.

**Hon. BILL FORWOOD** — No. The next one is:

Test 3 — A truly independent complaints and review mechanism —

I could go into this particular aspect in detail. If you follow it through, in the end the complaints mechanism ends up being controlled by the minister. I do not dispute that there are other steps along the way, but in the end that is where it ends up. It says:

Should disability legislation establish a complaints mechanism that is truly independent of the minister?

The answer is yes, but does the draft bill do that? The answer is no. But there is a model, and that is the human services commissioner or the health commissioner or somebody like that — what are they called?

**Hon. Andrea Coote** — The health services review commissioner.

**Hon. BILL FORWOOD** — The health services review commissioner is more independent than the model that is being proposed in the bill before the house. The next one is:

Test 4 — A commitment to families

Should disability legislation maximise the opportunity for input of supportive family units and acknowledge their role?

And the answer is yes. Margaret Ryan sent me something a while ago that talks about the role of families in this legislation.

The point that Margaret Ryan made was that there was very little mention of families at all, or parents. I think she said that disabled people are now orphans, or words to that effect. So Max Jackson's test is: should it 'maximise the opportunity for input of' persons. Of course it should, but this draft bill does not. The next one is:

Test 5 — A commitment to children and young persons.

Should disability legislation provide specific references to services and supports that may be required and provided to children ... And, should it acknowledge the role and responsibilities of parents of children and young persons with a disability?

Of course it should, but it does not do it.

Max Jackson's test 6 is a commitment to people with dual disabilities. I could go to the document from the Mental Health Legal Centre where, again, this matter has not been dealt with, and I could take you back to

the report in 1994 that I was involved in when we dealt with this. I am pleased to see that two of the genuinely concerned architects of the legislation before the house, people whom I know have real input into the legislation that is before the house, are present to hear the last little bit of my contribution, and I am sure they will read the rest of it as well. I do not doubt their goodwill, but what I am not sure of is whether we have got the legislation entirely right. I would be happy to sit down any time, any place, with anyone and debate those issues, but I look forward to doing it in the Legislation Committee soon.

I turn to the last thing that Max said in his paper:

Test 7 — The establishment of a logical and clearly defined set of pathways.

Should disability legislation establish a logical and clearly defined set of pathways for assessment, service provision and review, and complaints investigation and determination?

The answer is obviously yes, but Max has asserted that it does not happen. If I had the time I would turn to Max's assessment under test 7. He stated:

An often heard complaint by people with a disability, their families and service providers is that the pathways into, and within, the disability service system are complex and confusing.

I know the intention is that should not be the case, but I am not convinced that the bill before the house is right. What I would like to do — and I am sure Max would have liked someone to do it — is to sit down with the structure that he has suggested and talk about whether or not this is better than the one that is proposed through this legislation.

In his submission in response to the exposure draft of the bill, Max listed the following: clause 8(d), role and function of the secretary; clauses 11, 12 and 13, Victorian Disability Advisory Council; clauses 14, 16 and 17, disability services commissioner; clauses 20, 21 and 22, Disability Services Board; clauses 23, 24, 25 and 26, senior practitioner; clauses 28, 29, 30 and 31, community visitors; clause 32, Community Visitors Board; clauses 70 to 88, residential services and Victorian Civil and Administrative Tribunal (VCAT) involvement; clauses 102 to 123, complaints to disability services commissioner; clauses 124, 125 and 126, visits by community visitors; clauses 131, 132 and 133, reference — senior practitioner; clause 134, independent person and public advocate; clause 135, powers of the public advocate; clauses 136(b) and 137, application to and review by VCAT; clauses 144 to 147, review of treatment plans by VCAT, annual review of treatment plans by VCAT and leave of

absence — directions by VCAT; clauses 158 to 162, review of security residents by VCAT and special leave.

There are a lot of different bits of this and what we need is some sort of streamlined process so that people can actually understand how the process works — an easy way in, an easy way out. That is crucial. I was disappointed by the fact that there was no capacity through the timing of this particular piece of legislation for people such as Max to have their concerns listened to and adumbrated and dealt with in detail. I make the same point in relation to the Council of Intellectual Disability Agencies, the Tregales and the autism people. If the government can explain why it thinks these issues are satisfactorily covered, then we would like to hear it. That is the fundamental issue we are dealing with and what we are really looking forward to doing in the upper house Legislation Committee.

I have told Mr Viney that I intend to make available to the disability services division of the Department of Human Services and to the parliamentary secretary who has responsibility for the carriage of the bill some of these documents which have come to me — which I suspect Mr Viney already has because I got some of them from the DHS web site — and that I will be saying to them in the committee, 'This is the argument that is put in relation to' whatever it might be.

I refer to the Transport Accident Commission, which is a government body, and I have got its submission. I spoke to the TAC yesterday, as the minister knows. What the TAC said in its particular contribution can be summarised accurately by saying it has a concern that there could be a community residential unit with four people in it: three of those people may be funded through Human Services and one may be funded through the TAC. As the TAC, I am informed, understands the process, those four people in the house do not all have the same rights or responsibilities.

**Hon. D. K. Drum** — Or packages!

**Hon. BILL FORWOOD** — Or packages! In these circumstances one would think that there needs to be some comparability of rights and responsibilities. I know because its recommendations are as follows:

The TAC recommends that as the rights and protections enshrined in the bill are such fundamental rights, they should be applicable and enforceable for all people with a disability regardless of their source of funding for services.

As a matter of principle I agree with that. I think it is very hard to argue against it, but that appears to be the case. The second recommendation was:

That should recommendation 1 not be accepted, the TAC asks that consideration be given to the inclusion of a provision in the bill that expressly states that the bill applies only to disability services funded by DHS and disability service providers who are in receipt of funding from DHS.

To my knowledge that has not happened either. If it has happened, can somebody show me where? Let us take the bill to the committee and look at it. My great concern is that a raft of these sorts of issues has not been dealt with to my satisfaction. I understand the bill a fair amount, but I do not understand it nearly as well as Jean Tops or Margaret Ryan or the people from the Mental Health Legal Centre or the people from the Tenants Union of Victoria, or particularly the people from CIDA with whom I dealt earlier or for that matter the Kew cottages people.

I wish to put a couple of emails and letters on the record. The first email was sent to me by Jean Tops, who said in her introductory comments:

If you do nothing else ... please make sure you get on record ... the government's intention to proclaim some residential services as 'institutions' without any definition, without any limitations and without any explanation of what 'proclamation' means ...

It is clear that if this rule is allowed to stand, a future minister may declare every CRU as an institution thus excluding any further need for government to provide any bricks and mortar in the future!!!

This is so bizarre and such an outrage and so discriminatory.

I am absolutely convinced that that is not the intention of the legislation. I am absolutely convinced that if I had half an hour with the head of the disability services division or the minister's parliamentary secretary, we would be able to satisfactorily explain how it works to the extent that that particular concern would be assuaged. That is one of the issues that needs to be addressed.

I want to get back to where I started. This legislation is about people, and it is about Victoria maintaining its status as having the best legislation in this particular area. The first letter I want to read is from Nell Brown, the National Carers Coalition Coordinator and a New South Wales carer. She said:

If the intellectually disabled have fared badly in the state of Victoria prior to last week, from now on they will be whistling in the wind for services.

A new Disability Bill was passed this week saying that Victoria will concede a better future for the physically and sensory disabled person with fully functioning intellect, who is able to self-determine their living needs, but for the intellectually disabled, little concessions for their compromised intellectual function.

Basically a person who cannot rationalise and advocate their own needs will now have to take the same chances as everybody else, which, of course, means the failure of this bill to provide legislative supports will place the onus of responsibility squarely back on the parents/carers' shoulders.

Parents/carers of people with dependent disabilities are citizens with little value except to be used as 'free lifelong labour' by an indifferent community whose eyes glaze over as soon as the word 'disability' is mentioned.

She went on to say:

Steve Bracks, if you are determined not to pay for disability supports then you have a moral responsibility to refuse to sign the next Commonwealth State and Territory Disability Agreement and return the agreement and the onus on services back to where they should belong — to a resource-rich federal government ...

People understand that one of the acts this legislation repeals is the Disability Services Act, which was brought into place solely to provide for the relationship between the federal government and the state government over the provision of services and their funding. If that is what some people are concerned about, then it is another matter we need to take on board, and the Legislation Committee will have the capacity to do that.

The second letter is from Deborah Edwards in Queensland, who said:

As a mother and carer of my disabled son for the past 27 years I am shocked at the total lack of regard Victoria's proposed new Disability Bill seems to show for the people who do the most to support people with disabilities in this country — their families.

These families are very often forced to make huge sacrifices to give their loved ones the opportunity to walk through this hard world with the support and love they need. The families achieve this not due to government support, but in spite of the lack of it. We are some of the least valued members of society in Australia, and we all know it. Your proposed Disability Bill reinforces that knowledge.

As well as the emotional and financial hurdles we live with, we are constantly imposed upon by a system that wants us to do all the work but to have no legal rights in any decisions that are of crucial importance to ourselves and the life that we are expected to live, by a system that does not recognise the level of unmet needs in this society. Bureaucrats and service providers already have much more right to impose upon our lives than they deserve. If this draconian legislation is allowed to pass, the already exhausted and fed-up families affected by it may be pushed beyond their limits. The support will still need to be provided by someone — who will it be?

Onya Victoria, the rest of Australia is watching, hoping we don't end up following you into the Dark Ages.

**Sitting suspended 6.31 p.m. until 8.05 p.m.**

**Hon. BILL FORWOOD** — In the last 5 minutes allowed to me under the rules that shut me up after 1 hour, let me finish by quoting the parliamentary secretary, who at the end of his contribution to debate in the other place said:

In conclusion, we give assurances to the sector that this is good legislation ...

I am happy to accept that the member for Derrimut in the other place, Mr Languiller, thinks it is good legislation, but I point out to him and to the rest of the house that a raft of other people are concerned about its implications. While I do not doubt the bona fides of his efforts, I do say that we do not know yet that this is good legislation, and it is too important to take a risk on. When this bill goes off to the Legislation Committee of the upper house, I look forward to a really positive response from the government so that we can have bipartisan legislation which sets the next generation on this legislation, that gives us legislation that we are confident in for the next 20 years, before we repeal the groundbreaking legislation from 1986, the Intellectually Disabled Persons' Services Act and the Disability Services Act which followed it. This legislation, as I said at the outset of my contribution, is about people. It is about disabled people, their families, their carers and so many other people in the sector, and it is too important for us to get wrong. At the end of the day it is the legislators — the members of this house, the members of the other house — who will have responsibility for what passes this place.

I recently received from Jean Tops of the Gippsland Carers Association some more information about her views on this particular bill. She said:

The new legislation if passed in its present form will:

ensure that people with disabilities have their rights violated and their access to services curtailed;

guarantee that the system is more complex and less accessible;

perpetuate 'age discrimination' in the living choices of disabled Victorians aged less than 65;

exclude people with dual disabilities diagnosed with a psychiatric disorder;

alienate unpaid family carers;

place people with dependent disabilities at very real risk that caring families will stop caring.

I know that is not the government's intention, I know it is not the intention of The Nationals, and I know it is not our intention, but there have been no guarantees that the legislation before the house will not do all of those things. There is a generational opportunity about to

occur for us — that is, that at the end of this second-reading debate this piece of legislation, by motion of the government, will go to the Legislation Committee, and in that committee we will have the opportunity to ensure that all of the problems that have been outlined by the various people I mentioned earlier, and by Jean Tops from the Gippsland Carers Association whom I just mentioned, will be addressed. We will have the opportunity before this piece of legislation passes this house to ensure that we have got it right.

The responsibility is ours. It does not belong with anybody else. It does not belong with the bureaucrats or the not-for-profit sector. The responsibility for getting legislation right in this place belongs to the legislators. It belongs to us, no matter which party we are a member of, no matter which house we are in. At the end of the day we need to be able to say that we considered 212 pages of legislation in this particular bill, we know that it is right and that what it will do is make the lives of disabled Victorians and the lives of the carers, the lives of the service providers better than they were before we started. Until we can confidently say that, we should not pass this legislation. It is for that reason that we will oppose this bill on its second reading, but we look forward to seeing it in the committee and ensuring — —

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

**Hon. D. K. DRUM** (North Western) — At the outset I want to commend the Honourable Bill Forwood for the — —

**Hon. T. C. Theophanous** interjected.

**Hon. D. K. DRUM** — If the minister had been in the chamber for the other 55 minutes of the debate, he might have heard one of the better speeches of the year, but obviously he was not.

**Hon. R. G. Mitchell** interjected.

**Hon. D. K. DRUM** — Mr Mitchell, you are never here, because you are just a lazy prick!

**The PRESIDENT** — Order! The Honourable Damian Drum has been in this chamber long enough to know that is highly unparliamentary language. I ask him to withdraw.

**Hon. D. K. DRUM** — I withdraw.

We have this highly emotional bill before the house, and it is crucial that we get the most important aspects

of it on the record. It is an emotional topic, because as legislators we have an opportunity to do something significant or to do nothing if we want. The choice is up to us. But this is something that affects 700 000 disabled people in this state, their siblings and other members of their families and their carers. It affects all the people who are receiving the services and all the people who are not. As Mr Forwood has said time and again, it is up to us as legislators to be responsible for our actions. The legislation that is already in place has achieved many outcomes, but it has fallen short. It is up to us, as we get rid of that legislation and bring in new legislation, to ensure that we are not throwing the baby out with the bathwater.

This bill makes reforms concerning the rights and responsibilities of people with disabilities and is based on a recognition that it requires support from across the government sector and within the community. That support has certainly been questioned by those who have the most immediate involvement in the disability sector. The bill repeals the Intellectually Disabled Persons' Services Act 1986 and the Disability Services Act 1991, and amends 19 other acts. The plan to review the two existing pieces of legislation was released in September 2002. The discussion paper was released in May 2003, and it was followed by statewide consultation. The recommendations from that were released in October 2004.

I would like to talk a little bit about that consultation process later on. There are some real concerns about the way it was all handled and the poor way the government went about it. Phase 1, the discussion paper, was released in May 2003. Phase 2, the recommendations report, was put out in October 2004. The exposure draft was released in November 2005 and the government gave the entire disability sector a period of about three weeks to respond. This was at the end of the year, when people were about to go on holiday from work or school.

People had three weeks to look at the enormous exposure draft, try to make sense of it and make submissions to the government for it to supposedly take notice of. It was an amazingly callous decision by the government to release the exposure draft at that time and to demand that submissions be made within a very short space of time at a very inappropriate time of year. We asked for an extension until at least the end of February, and hopefully the end of March. We were not successful, but we received an extension through the holiday period. The closing time was the middle of January, when departmental executives were returning from their holidays.

The process the government has gone through in order to achieve this bill needs to be compared to the federal government's process when it wanted to revamp the Disability Discrimination Act 1992. The time lines for the two bills have been roughly similar. The federal government process started in February 2003 and went for about 12 to 16 months, and in that time it held public forums and hearings right around Australia. The transcripts from those forums and hearings were posted on the web site after every meeting. The recommendations that derived from those hearings and forums were made public for anybody that wanted to take notice of them.

People whom we have asked to appear as witnesses to give evidence on this bill to the Legislation Committee were able to meet the federal government's hearing panel and give an hour of their time to help the government formulate a better Disability Discrimination Act. All the information, data, research and recommendations collected by the federal government have been made available for public viewing, so that if politicians in the future are looking to make further changes to the Disability Discrimination Act they are available and the politicians can see the work done at the earlier time and can use that as a baseline from which to move forward.

In Victoria all the work done by the group has been kept behind closed doors. We have not been privy to any of the recommendations. No reports have been presented. When the government was preparing — —

**Mr Viney** interjected.

**Hon. D. K. DRUM** — Mr Viney says there was public consultation around the state, but we did not see the transcripts. We did not see any of the recommendations that came from those public hearings. We did not see any of the research or data that came out of those hearings. There were no recommendations and no final report.

**An honourable member** — Did anyone else see them?

**Hon. D. K. DRUM** — No-one was allowed to see them. The government was given two reports, and it claims that they are cabinet-in-confidence so no-one was able to see anything reported by the panel hearing until we saw an exposure draft, which we received just on Christmas when we were given three weeks to put in our submissions in order to try to make a difference. These are contrasting styles from two different governments. This government, which continually

prides itself on being open and accountable, has acted in a most secretive manner in preparing this draft.

I have given notice of my intention to put a motion before the house in the hope that we can get three expert witnesses to give evidence before the Legislation Committee, but we now hear that the government is not keen for that evidence to be given. Again the government is using its numbers not to get the best possible legislation but to make sure it gets this legislation through the house with a minimum of fuss. That is a significant worry.

**Mr Viney** interjected.

**Hon. D. K. DRUM** — Mr Viney, I agree with Mr Forwood. We would like to see the Legislation Committee work, but you and your government are going the wrong way about it if you are hoping to get some goodwill in relation to the Legislation Committee and the reviewing of bills.

**Mr Viney** — Goodwill goes both ways, Damian!

**Hon. D. K. DRUM** — I take up Mr Viney's interjection. In what way has government goodwill been affected by The Nationals?

**Mr Viney** — What are you doing now?

**Hon. D. K. DRUM** — I am saying that we have gone by the letter of the Standing Orders Committee and we have asked for three expert witnesses to help us get to the bottom of some of the problems. We have seen submission after submission stating that there are problems with the bill, and the government is not prepared to have expert witnesses come before the committee to tell it —

**Mr Viney** interjected.

**Hon. D. K. DRUM** — Maybe it is interesting —

**The PRESIDENT** — Order! This is not question time; it is a debate. Mr Drum should address his remarks through the Chair and ignore interjections.

**Hon. D. K. DRUM** — Thank you, President. I have enough humility to understand that I do not have all the background knowledge on all the issues covered by this bill, and I am going to need the help of experts in order to drill down and get to the bottom of some of these issues — and that is a reasonably fair ask. I think it is in the spirit of the Legislation Committee that we have an opportunity to bring experts along so they can help us get to the bottom of some of the issues we are talking about.

As Mr Forwood obviously did, I spent a lot of time reading the submission from Max Jackson. He put forward seven tests in relation to the bill, and although Mr Forwood has already mentioned them I would like to mention them again. Mr Jackson asked whether the bill should give a commitment to funding. Of course a bill on disability should make a commitment to funding, but does this bill do it? No, it does not. Mr Jackson asked whether we have a commitment to a right to service, and the answer is that we do not. Is there a truly independent complaints and review mechanism? A disability bill should be able to put that in place. Does this bill do that — no, it does not. Is there a commitment to families? I want to talk about that later, but again this bill completely leaves out any respect for families. Is there a commitment to children and young people? This bill has no commitment to children and young people — in fact, it does not even mention children or young people. Is there a commitment to people with dual disability and psychiatric disability and those with a psychiatric impairment? Again the bill leaves them out in the cold. Is there an establishment of a logical and clearly defined set of pathways? This bill leaves those people without any sort of pathway whatsoever.

When the exposure draft was first put out Mr Jackson called for an extension of the submission timetable until the end of February. Obviously he did not get that. When he put in this submission, as has already been pointed out in the debate, he received no response from the government. He understands the industry and has looked at the sector very clearly. In his submission he has tried to show some of the glaring omissions in the bill.

The Kew Cottages Parents Association is another group which has been through the bill and looked at how it will affect its sector. The association makes up nearly 10 per cent of all those people in Victoria living in shared support accommodation, so it speaks for a reasonably large percentage of all of those receiving accommodation support. It asked some key questions including:

Does the Disability Bill make adequate provisions for people with an intellectual disability and a decision-making incapacity or a major communication impairment?

This key group is directly affected by the bill and it has said that the bill does not help it. It asked:

Does the Disability Bill guarantee that these individuals will receive the services they require in order to achieve the objectives and principles of the act?

The answer is that it does not. If you look at the *Victorian State Disability Plan 2002–2012* you see a lot of rhetoric.

The actual plan is a good read and, a bit like Mr Forwood was saying earlier, you tend to think that you are on the right track if this is the way your government is approaching these issues. But there is an enormous gulf between what is written in the state disability plan and what constitutes government action. It seems that whilst the government is quite prepared to put out all the rhetoric that is a good read, what it is prepared to do in reality is totally different. Kew Cottages Parents Association certainly makes those distinctions in its submission:

Do families/advocates/next of kin have a legislative role in the planning and decision-making process?

No, they do not. The association says that families are getting left out.

Does the Disability Bill permit too much to be decided by regulations and not enough in legislation?

This is typical of the type of legislation we see coming before the house all the time. It is certainly a worry for our peak accommodation houses and is something that we really need to address. The emphasis has to come back to the politicians — to the backbenchers and to the ministers in this chamber who are quite prepared to sit back and let this legislation go through. Ms Hirsh has had some experience in this sector. I wonder how many hard questions Ms Hirsh has asked the ministers on the funding models, because at the end of the day all this revolves around is the funding. We have the most inappropriate funding models to deal with the disability sector — —

**Mr Viney** — What about the 10 per cent cut under the Kennett government when it came to power?

**Hon. D. McL. Davis** — What about the massive wreck you left the state in?

**Hon. D. K. DRUM** — Every time we talk about the inadequate services that are provided in this state to people — —

*Honourable members interjecting.*

**The PRESIDENT** — Order! Mr Viney will get his opportunity. If Mr David Davis wants to speak, he should put his name on the list or otherwise be quiet.

**Hon. D. K. DRUM** — Every time we talk about the inadequate amount of funding that is available for disability services we get the same old rhetoric from

this government: either attack Kennett or say the state government has increased funding. There is no doubt that the state government has increased funding, and we have said that all along. The fact is that it has not increased it enough, particularly as in the same amount of time the state government's revenue has nearly doubled. Unless it has doubled the disability sector's finances, the disability sector is not getting the same amount of the pie that it was when the government came to power, and that is the most important aspect.

If you are going to raise the importance and the priority of any sector, you have to increase the available money you spend when compared to the pie that you have available. That is something the government has not done. The government can always talk about the millions of dollars that it has increased spending by when its budget has doubled in terms of billions of dollars. It does not wash. Can government members put their heads on their pillows every night with the thought that they have done as much as they possibly can for this sector? That is what the government has to judge itself on each and every night, because the outcomes certainly are not being met when it comes to the disability sector in this state.

**Mr Viney** — It has increased from \$580 million to \$980 million.

**Hon. D. K. DRUM** — Yes, but that is not 100 per cent. Yet your budgets have increased.

**Mr Viney** interjected.

**Hon. D. K. DRUM** — That is right, and we acknowledge — —

*Honourable members interjecting.*

**Hon. D. K. DRUM** — If Mr Viney wants to keep living in history, he will continue to ignore an outcome-based funding model that is desperately needed for this group.

**Mr Viney** interjected.

**Hon. D. K. DRUM** — Until the government acknowledges that it has to put in place — —

**Mr Viney** interjected.

**The PRESIDENT** — Order! Mr Viney!

**Hon. Richard Dalla-Riva** — Kick him out!

**The PRESIDENT** — Order! Mr Dalla-Riva!

**Hon. D. K. DRUM** — Until the government realises it has to put in place a population-based funding model that is going to look at the problem at hand and then put in place a funding model that is going to fix this issue, it is going to continue to ignore the problem and simply say it is spending X amount of millions more in a sector but none of it is based on outcomes.

The figures that Mr Forwood presented to the house earlier tonight make quite stark reading. Mr Forwood had the figures incorporated in *Hansard*, and I want to look at them in a different way. In every 1000 people, 78.6 are in accommodation support. That means that 922 of every 1000 people on the waiting list are not getting accommodation support — 922 of every 1000 are missing out. For every 1000 people out there, 828 are missing out on community support. In a potential population for community access, 889 in every 1000 people out there miss out; 832 in every 1000 people miss out on respite; and 769 in every 1000 miss out on any form of employment. All I am asking is that the government acknowledge that we have got a serious and substantial problem here and we need to do something about it. It is not just a matter of saying, 'We spent an extra \$X million on a project. That is surely good enough'. It is just not good enough, and we have to continue to do more.

The key to it all is a population-based funding model which will look at the issue, the population and the problems. We have so much more data readily available to us in this state now, and we understand how big the problem is. We understand the services and the needs of the disability sector much more clearly than we ever have in the past, and now we need a government that has the courage, the will and the desire to put in place a funding model that is going to address the problems. The way we fund the disability sector at the moment is on historical models — that is, how did we fund it last year? How much more can we aggravate out of the system to pay it this year? The following year we will look at what we paid last year and see how much more we can aggravate out of the system to pay it this year.

None of the funds allocated to the disability sector are linked to the problem. That is not done with the aged. In respect of the aged we understand the problems in the left-hand column and we put in place the necessary funding to look after those vulnerable people in the community in the right-hand column. We do not just fund in a historical manner and hope the problem will go away, because in the aged sector we know it will not go away. In the disability sector we are effectively saying it will go away because the problem will be left at home with the ageing carers, and it will not be

addressed. The required services will not be provided in the community.

**Hon. P. R. Hall** — We need a per-population funding model.

**Hon. D. K. DRUM** — That is exactly what we need, Mr Hall. It comes back to taking on board the responsibility and being prepared to ensure that we do not duckshove that responsibility. We must understand that we are the ones who have to pass the legislation. The bill might be thorough, researched and drafted well by departments, but effectively it is the parliamentarians in this chamber who will have to pass it. We need to take responsibly for that and not hide behind the fact and say, 'I wrote a letter asking for a better deal. I had an appointment with the Treasurer and I had a meeting with somebody'. It is not good enough unless we see some outcomes.

Some 990 000 Victorians — nearly 20 per cent of the population — have a disability, over 38 000 of whom are children aged between 0 and 15 years. Last year I had a parliamentary intern produce a research paper on the availability of early intervention services and the incidence of autism in regional Victoria. She looked at what early intervention services were available for children aged 0 to 6. Her report was damning. It revealed dramatic shortfalls in early intervention services in the region.

We discovered there is an enormous waiting list for intervention services. It tears at the heartstrings to see parents who have come to see you as their local MP break down because they realise there is a window of opportunity available for autistic children, for children with global development delay and for children with a whole range of other intellectual disabilities and know that every ounce of early intervention and high intensive schooling in those early years will give children a chance of an independent or semi-independent life yet have to go on a waiting list. If they do not get that opportunity they see their children regress and the opportunity slipping out the door.

We can fix that tomorrow with an injection of funding. We can get early intervention services across the state tomorrow for not an enormous amount of funding, but it is an area where we need government and opposition members to aggravate for a better funding model. We certainly need people to look at the problem and put in place the appropriate funding levels so that we at least provide for our children in a way that means they can definitely have the best life possible. Many of these families have already been given a life sentence in relation to a family member with a disability, and those

life sentences are being played out in many families around the state.

I was talking to some dear friends of mine in the St Arnaud-Wedderburn district only last week about their daughter, who has a number of problems. The biggest of those problems is that she is autistic and self-mutilates. They have to watch a 24 hours a day every day of the year. That means that mum goes to bed early and gets only 3 or 4 hours sleep before midnight when her husband then goes to bed. They are both well into their 60s. They share the night, slipping in and out of sleep while keeping one eye on the monitor that has their daughter in view. The daughter is now well into her 40s and they have to keep an eye on her 24 hours a day in case she self-mutilates. They have had her on a waiting list for years trying to get some form of help or shared supported accommodation. Unless they are talking to these families on a constant basis it is too easy for parliamentarians to think that the problem is out of sight and out of mind. It is out there and it is real. We need to be acutely aware of it and to keep ourselves cognisant of the struggle that all such families are going through on a daily basis.

There are real concerns that this bill will make it more difficult for families to access services. I hope we can sit down with the minister at the Legislation Committee hearing and go through how it is that families will access services they have been getting all these years.

**Hon. P. R. Hall** — It is a very convoluted process in the bill.

**Hon. D. K. DRUM** — Certainly there are some parts of the bill, Mr Hall, that are convoluted and there are some parts of the bill that read well, in which the bill says that the agencies will have to come up with a plan that best suits the individual's needs. That reads well, but the problem is, and we keep hearing it from the agencies when they say, 'We are not funded sufficiently to cover what people need. Individuals will come in, sit down, be assessed and we will work out what they need. We must then negotiate the family down. We understand the package they want and need and we know it is legitimate, but we do not have the money so we have to start negotiating them down from where they started'. This is the whole problem with parts of the bill because the government has excused itself.

There was real sadness about the way the draft bill was written because the government was effectively taking away the responsibility it had to fund this sector to create the outcomes. The wording used in the draft bill — thank goodness it was taken out of the bill we

are discussing today — went along these lines: due regard must be had to the limited resources available to provide disability services. It said that whenever this government or its agencies were about to deliver any service or had any responsibility to deliver a service, due regard had to be given to the amount of money available.

**Hon. P. R. Hall** — Building in an excuse.

**Hon. D. K. DRUM** — The government had a built-in mechanism for saying, 'We understand the problem, but we will not fund it sufficiently and will therefore give half or three-quarters of the required service'. There was enormous political uproar within the sector. Nearly every submission that came to my office — there was a pile a foot high — had that as the leading element that needed to be addressed. Thank goodness the government took that wording out. It made everybody suspicious about what that sort of terminology was doing in the bill in the first instance. It was an issue that caused a lot of suspicion in the sector in towards the drafting of that bill.

We need to zero in on the lack of open and transparent processes by the government in introducing this bill. That has created some real issues. No reports were put forward, and we will have to talk about that in the Legislation Committee.

A range of problems have been raised by the Council for Intellectual Disability Agencies, Max Jackson, Jean Tops, Margaret Ryan and the Kew Cottages Parents Association. We have had to try to work our way through an enormous number of issues. Hopefully we will be able to get through most of those issues when this bill comes before the Legislation Committee.

Until then I think it is best to let the house know that The Nationals will be opposing this bill. We look forward to having an opportunity to sit down and discuss the bill, to drill down into it and investigate what the government has put before us and why it has opted to use this terminology. Why is the sector which has the greatest amount of understanding of the industry so opposed to so many parts of this bill? We need to drill down and find out why that is. Hopefully we will get the government to realise that this bill has some serious flaws.

**Mr SCHEFFER** (Monash) — Of all the matters that have been raised with me since my election, issues relating to disability have been by far the most pressing and concerning. I am sure I am no different to other members of the chamber when I say that I have worked with a number of families and local organisations

which are responsible for the wellbeing of people with disabilities. I have made it my business to listen to the concerns raised with me and to communicate them to the government, either directly or by arranging meetings between constituents or local organisations and government representatives or departmental officers. I am sure many of us in this chamber have visited families who care for loved ones who have disabilities and have seen first hand how their lives are affected by the responsibilities they carry.

It is important to recognise that while we have all heard stories of sadness and frustration, the great love and joy that parents, for example, have in those of their children who have disabilities can be truly uplifting. Mixed in with the challenges and the daily struggle to get a fair deal for family members who are in desperate need of personal services, we find the great richness of family life. I think it is important in this debate to recognise and celebrate the many wonderful things that families and carers do for loved ones with disabilities.

Every week we as members receive many publications and newsletters from different peak organisations and local groups that raise awareness, advocate, fundraise and share the stories of people with disabilities and their families. I take this opportunity to recognise the work of these organisations that do so much to benefit people with disabilities and their families. Gawith Villa, the Association for Children with a Disability, Jewish Care, Vision Australia, Mecwa, Yooralla, Scope, Impact, Bayley House and the Disability Network are examples of local organisations in Monash Province that provide wonderful support services to families.

Recognition should also be given to the many thousands of citizens with disabilities who lead full and rich lives and who give so much to the general community and the betterment of other people with disabilities. A disability, a difference, is an element of one's identity. It widens and enriches perception and allows for experiences not available to people who do not have a disability. People with disabilities have throughout history profoundly transformed human understanding despite and because of their disabilities.

It has often been said, and perhaps it is almost a cliché, that the way a community responds to people with disabilities is a mark of its civilisation. Understanding individual and group difference is historical. Only in the last century or so have we come to understand that the disadvantages experienced by individuals, groups and communities are in large part structural and can be ameliorated by good public policy. It is only relatively recently that we have come to understand the relationship between environments and disadvantage

and that a change in cultural practice can remove what had hitherto been experienced as a disadvantage. I believe that disadvantage is generally structural and that it is a product of cultural practice.

As a society we have travelled some distance from the time when it was acceptable, and seen as unavoidable, for people with disabilities to be excluded from society. In its worst forms this involved isolating people with certain culturally identified disabilities in institutions. Certain types of disabilities were pathologised by socially accredited experts and this caused untold misery to many. In other instances exclusion was accompanied by genuine charity and well-intentioned care, but of course that never substitutes for individual rights and self-determination.

There has been significant progress over recent decades. There is increasing understanding of the way the lives of people with disabilities are impacted upon by structures that limit their capacity to determine their own lives. The Australian Human Rights and Equal Opportunity Commission is working on what it calls the different areas of life that intersect with disability. It is undertaking important investigations that will help make improvements. The range of issues being looked at includes the impact of building codes and access standards on the built environment; obtaining casual or permanent rental accommodation or buying land; issues relating to the design and building of houses; access to and participation in the arts; access to holiday destinations; access to technology including telecommunications and the Internet; education; health services; goods and services; public transport; sport; and access to justice and electoral participation.

The Disability Bill should be considered in this broad context. Fundamentally the bill is concerned with human rights. Its purposes are clear: to make sure people with disabilities are fully included and participate in the general community, and that the Victorian government and its departments practically support that inclusion and participation. The bill is based on a number of key principles that articulate the rights and responsibilities that people with disabilities have as citizens and that set out the requirements placed on disability service providers in their work with people with disabilities, their families and carers.

The bill formalises the role of the Victorian Disability Advisory Council. This is an important development because it will strengthen the capacity of people with disabilities to consult with the community, to identify issues, to advocate and build support for their amelioration and to take recommendations directly to the minister. By prescribing the establishment of the

council in this bill the Parliament will enshrine the rights of people with a disability to participate in all levels of decision making.

Similarly, the establishment of the disability services commissioner is an important innovation because it will enable complaints regarding service providers to be properly heard, conciliated and publicised, and will enable remedies to be developed that will contribute to the improvement of service provision. Over the long term these functions can significantly empower citizens with disabilities and build the capacity of the public to influence the direction of disability services.

The bill requires the regular preparation of a state disability plan. All Victorian government departments, prescribed statutory agencies and statutory corporations which do not already have disability action plans will be required to develop them.

The bill introduces greater flexibility into the delivery of disability services. Planning supports for people with disabilities has traditionally focused on fitting the person's needs to predetermined programs and services. Under the provisions of the Disability Bill planning is envisaged to take place within a philosophical framework that privileges self-determination, community membership and citizenship. The process engages the person in shaping the supports they need to realise their goals. People with disabilities will be able to engage in this process to varying degrees and planning will need to be respectful of the needs of family members and carers in the life of the person.

Under the current Intellectually Disabled Persons' Services Act people with an intellectual disability, regardless of their individual needs and circumstances, are required to undergo a general planning process conducted by the Department of Human Services to develop a general service plan. However, under the Disability Services Act people with a disability have limited access to general planning and where planning does occur it happens only in relation to the provision of specific services — a support plan is developed in relation to a specific service.

This bill will ease the process by enabling the plan to emerge out of a negotiated interaction involving discussion, agreement and long-term development with the person and their support network. An individual, regardless of their disability, can request planning assistance from any provider and the provider must make arrangements for this to happen. Where a service provider does not think that a person has a disability, the person can still have an assessment made by the Department of Human Services to determine whether

they are eligible for support. The bill makes sure that planning support for an individual is in the first place based on a recognition of the rights of that individual. Plans should also take into account the range of family and community support that could be drawn in to help individuals achieve the best for themselves.

The bill makes sure that residential services take into account the rights of people with disabilities and that they understand their obligations and are fully accountable. Providers are required to inform a person receiving their service of the details of the service, its cost and any special conditions that apply as well as complaints procedures and their clients' legal rights.

The bill and the process of its development have been both applauded and criticised. Constituents in Monash Province have raised a number of matters with me over the past couple of years. I have listened to the concerns and read the very detailed material that has been provided to me by Ms Margaret Ryan and Mr Max Jackson, both constituents of Monash Province and passionate local advocates for people with disabilities. Ms Ryan especially will know that I have made a number of efforts to ensure that she has been able to put her case directly to the Parliamentary Secretary for Community Services and other members of Parliament, and everyone in this house has received detailed material from Mrs Jean Tops of the Gippsland Carers Association and from the Council of Intellectual Disability Agencies.

The difficulties with the bill that have been raised with me were also dealt with in written submissions in response to the exposure draft, and they include concerns over the definition of 'disability', the assessment of whether a person has a disability, requests for disability services, planning, grievance and complaints processes, and resources. The purpose of the extensive consultation and submission process was to review all the details of these arguments.

Notwithstanding this, the issue of the definition of 'disability' was central to the concerns raised with me. The government has been clear that the bill does not alter the target group for access to disability services and provides for a streamlined system to determine whether a person has a disability, rather than the current system, which is complex and based on the type of disability. The bill uses a functional rather than a diagnostic definition of 'disability'. The chair of the Disability Advisory Council of Victoria, Dr Rhonda Galbally, supports this position. Dr Galbally says:

It is pleasing to see that the government has followed the international trend of moving away from specialist service provision according to diagnosis.

There have been calls to delay the passage of the bill to enable further consideration, even though there has been extensive consultation over nearly three years involving, as the minister has said, close to 1200 individuals and organisations. The recommendations and report of the review were released in October 2004, and 500 people participated in the follow-up consultations, with 80 organisations submitting written comments. Along with others I supported calls for the release of the exposure draft and advocated to the minister on behalf of some of my constituents that this should happen. The minister agreed to release an exposure draft and was then criticised for not allowing more time for community response.

I note that Julian Gardner, the public advocate, has written to the minister expressing his concern about the calls to delay the passage of the bill. He said there had already been extensive consultation and that it is now time to act. I agree with Mr Gardner that no doubt some aspects of the bill will need to be further developed, but that is not a reason for delaying the legislation.

In conclusion I would like to come back to remarks made by Damian Drum about the level of funding that the state has put into disability services. I believe he claimed that the state had not kept pace with the growth of the economy. Figures that I have indicate that in 1999 the state economy was valued at about \$19 billion, whereas today it is something like \$30 billion. That is a 55 per cent increase. Over the same period there has been an increase in disability services from \$580 million to \$980 million, which is a 73 per cent increase.

Lastly, amid Bill Forwood's astonishing remarks and his usual oral pyrotechnics he made available a chart that is very difficult to follow. I looked at the range of figures, and as the Minister for Energy Industries said earlier, there is no trend line which shows the relative weighting of the different data that he gives, nor does he indicate in any way how that works over a period of time. The figures do not compare like with like, and it is impossible to understand them. It is part of Mr Forwood's technique in the chamber to circulate a document like this and gesture towards it, but he will either refuse or is unable to unpack it so that the house is clearer about what is being argued through the figures. If this is raised in later debate I will be intrigued to see whether it can be explicated for the house.

In short, this is important legislation that will contribute to the wellbeing of people with disabilities in Victoria, and I commend it to the house.

**Hon. ANDREA COOTE** (Monash) — I think if there is an emotion that comes to me when speaking on this bill it is humility, because the people I have dealt with over some time now, who have been lobbying me about this bill and with whom I have worked are some of the most admirable people in our community. I thank them for sharing some very special and poignant moments with me and helping me understand what this bill is about and what we are trying to achieve here.

I believe also, and I will reiterate exactly what my colleague the Honourable Bill Forwood said, that this is a bill about people. In this place many of us want to use what Mr Scheffer called 'oral pyrotechnics'. There are many people in this place — and I do not count Bill Forwood as one of them — who like the sound of their own voice. This is not about them; it is about making laws that are going to affect people's lives now and into the future, and it is incumbent upon us to make certain that these bills reflect exactly what the communities affected by them think.

This bill is a disappointment of monumental proportions. It is a disappointment for the 87 people who made submissions and for the 87 groups who took the time to also make submissions, groups such as the Australian Council for Rehabilitation of People with Disabilities, the Council of Intellectual Disability Agencies, Carers Victoria, the Disability Advisory Council of Victoria, Scope (Victoria), the Victorian Advocacy League for Individuals with Disability, the Victorian Council of Deaf People, Yooralla — the list goes on.

These people spent a considerable amount of time and effort in putting together submissions, and the submissions were dealt with in a cavalier and very expedient manner. But this bill is also disappointing for all Victorians who care about the disabled in our community; it is a disappointment for the disability sector; and most of all it is a disappointment for every individual who has a disabled child, friend, neighbour or family member. No one is happy about this bill; it has disappointed everyone. It could have done so much.

This is the last rite for community services minister, Minister Garbutt. She has been a minister who has passed through this entire Parliament without having made any impact at all. Sadly for disabled people in Victoria, she did not excel in the delivery of this bill either. She got it wrong. The attempt was good, and as my colleague the Honourable Bill Forwood has said, the thrust of the bill was probably in the right direction. The problem is that it just does not go far enough. What a disappointment — what a major, major disappointment!

Minister Garbutt could have presented a bill that showed understanding and foresight and addressed the problems and challenges of the disability sector for the next decade and beyond, but she did not take that opportunity. It did not happen. That is the disappointment that is being reflected. She had a really rare opportunity to make a difference, and she has not made a difference.

I will mention individuals who have been involved in this area. I would like to put on the record the people who have consistently been lobbyists and who I think have done an exemplary job in alerting the entire Parliament to concerns about this bill. I mention people such as Margaret Ryan; Max Jackson, who has been spoken about before and who has had a long association with the Kew Cottages Parents Association; Jean Tops from the Gippsland Carers Association; Helen Johnson from the Gippsland Carers Association, who is also coordinator of the Australian Association for Families of Children with Disability; and George Vassilou, a suburban liaison representative for the Walk a Mile in My Shoes-National Carers Coalition, who coordinated the very successful Walk a Mile in My Shoes event which took place on the steps of this Parliament not so long ago and which was held simultaneously in Canberra to alert politicians and the community at large to some of the issues regarding carers. At that time we heard some very poignant and moving stories about people who were involved in this sector.

I believe people such as the ones I have spoken about and others, people such as Tony and Heather Tregale and Sue Jackson from the Council of Intellectual Disability Agencies, have dedication, knowledge, passion, strength and intellect that I think is exemplary.

We know from this bill that the legislation will commence in July 2007, and there has been undue haste in the way the bill has been discussed and debated. The reality is that the bill was brought out in haste. The exposure draft was brought out for comment around Christmas time. Each and every one of us in this chamber understands how tense and stressful Christmas can be, and we are able-bodied and do not have the stress of caring for someone who is disabled at what is already a considerably stressful time. People from the disability sector who have been so passionate about and so involved with this bill for such a long time were given a really short time to have a look at the elements of this bill. The draft was brought out just prior to Christmas, and in all the Christmas rush it was extremely difficult for those people to analyse it properly, which was of extreme concern. Very fortunately — and eventually — under a huge amount

of pressure the government capitulated and elongated just slightly the time it had made available.

CIDA said about this issue:

It is our very strong view that substantial redrafting and further development is required.

That would not be able to be done without additional examination of the bill, seeing what is involved, and greater analysis — and that indeed is what this government forgot to do or did not spend enough time doing in the first place.

Carers Victoria also came out and spoke about what it felt was the limited number of people that had presented submissions on the bill. Carers Victoria felt that there was a reason for this, and it felt that the reason was the very short time line involved. In a letter sent by Carers Victoria to the Premier, Minister Garbutt and the Parliamentary Secretary for Community Services, Maria Bohan wrote:

However, fewer responses may also be an outcome of the very short time lines given for responses to the report, i.e., only weeks to read, digest, consult a constituency, and write a response.

If this government, including the Minister for Community Services in the other place, Minister Garbutt, had really believed in the philosophy behind this bill, it would have made quite certain that it was out there for it to be dissected, discussed, criticised, pulled to pieces and put back again in the way that it needs to be. But that did not happen, which is a great pity, and it is reflected in this bill.

Whilst we are debating this bill it is important to understand some of the statistics. There are around 940 000 Victorians with a disability — that is, about one in five persons. Of these, 273 000 have a severe or profound disability. There are almost 700 000 carers living in households, and there are almost 94 000 people with disabilities in Victoria who receive supported assistance from co-resident parents. Some 50 000 of these people are babies and children, from newborn to 15 years. There are 389 government and non-government disability service organisations, each of which operate at least one service outlet. We are not talking about small numbers; we are talking about a very large number of people. I have a particular interest given that with my aged care portfolio I look into the problems that ageing parents have when they are considering what is going to happen to their disabled children in the future. They have grave concerns about that situation.

I have only 15 minutes in which to contribute to debate tonight. There is a great deal I could say but my time is very short. However, I take this opportunity to get on the record and into the public arena what some of the peak organisations have said they believe are some of the pitfalls with this bill. It is absolutely vital that we hear their voice and that we listen to what they have to say so that the government can then make amends for what was left out when it was drafting this bill.

I have looked at the submission from the Council of Intellectual Disability Agencies (CIDA). I will outline briefly what its concerns are. Its key concerns are that the bill does not articulate how individuals can access the full range of disability services, in particular higher intensity services; that the process for accessing services will be more complex, confusing and less streamlined for people with intellectual disabilities; that poor practice regarding individual planning will result from the bill; that the bill involves the loss of the statutory entitlements of people with intellectual disabilities; that the bill shifts responsibility from government onto non-government service providers; and that the bill allows the government/department to abrogate responsibility for planning for people with intellectual disabilities and for other areas where responsibility should as a matter of principle and practice remain with the government. The council adds that non-government service providers are by and large not funded to fulfil these responsibilities whereas the Department of Human Services currently devotes considerable resources to this but still has difficulty complying with legislative requirements. It also says that the provisions have the potential to seriously circumscribe the capacity of the boards of those organisations to fulfil their fiduciary and other responsibilities as directors.

It is important that this is on the record. We will be going into a brand-new area when the Legislation Committee of this chamber commences its hearings, and it is important that the aspects I have just read into *Hansard* are addressed when we get into that committee. We want to thrash them out, we want to have a closer look at them, and we want to see how the government will reply to them.

The Gippsland Carers Association, Jean Tops in particular, has given us considerable information in the submission it put in. It put forward 29 recommendations which were well thought through, well articulated and very objective. I will read a few of those 29 recommendations because I think it is important to get on the record what its concerns are.

Recommendation 1 is that the bill be proclaimed as the Disability Services Act subject to the adoption of the recommendation; otherwise it should be called the Intellectually Disabled and Disabled Persons' Services Act. This we know. The next recommendation is that definitions in the legislation be amended to ensure that a reference to a 'person with a disability' shall also mean a person with an intellectual disability or a development delay, and that a reference to a 'disability service' shall also mean a service to persons with a disability, intellectual disability or development delay. This should have been clarified at the point when the bill was drafted.

It is a great pity that issues such as those concerning the definitions have not been properly thought through. This is something that could have easily been done and made a big difference. I am running out of time. There are a number of issues, and I hope we get the opportunity to have a closer look at them when we go into the Legislation Committee.

This bill presents some major problems and, as I said at the outset, these problems could have been overcome. It is seriously disappointing that the bill does not go far enough. The government did not listen to the people whose lives it is going to impact on. It did not have the foresight into the future. It had an opportunity to make a very real difference into the future.

Overall — and these points have been taken from some of the people who have contacted me — the Disability Bill is deeply flawed because it lacks conceptual clarity in addressing discrimination and services in the one piece of legislation, and it lacks conceptual integrity in amalgamating the two pieces of services legislation. Margaret Ryan said:

Because of the intrinsically flawed nature of the bill before them, Victorian MPs have an extremely difficult job. It falls to them to accept, reject or amend the Disability Bill 2006 in the knowledge that any legislation which is passed will affect the lives of babies, children, young people and adults with disabilities and their families for upwards of the next 20 years.

Sadly tonight we have not been able to broaden this out to do just that. The Liberal Party's position is that this bill has been drafted by the Department of Human Services, not by the disabled. I would like to end with a quote from Jean Tops, who said:

Families who provide more than 91 per cent of the supported accommodation and care for over 65 000 Victorian children and adults with severe and profound disabilities are all but ignored in this legislation, which clearly seeks to give the Victorian government carte blanche to opt out of responsibility for our most vulnerable citizens.

I wish this bill good luck as it goes into transition to the next stage — which is in fact historical with the new Legislation Committee. I wish it good luck in its journey through that committee, and I hope out of that committee the government can see fit to address some of the mistakes it has made and make a genuine attempt at doing something to improve this bill. We are looking forward to seeing some changes for this sector. This is an opportunity that has been wasted. It has been disappointing, and we had hoped for better.

**Hon. P. R. HALL** (Gippsland) — In 15 minutes I do not have much time to canvass the issues in this bill. It is indeed a significant bill, and that has been recognised by previous speakers. What it does is to consolidate aspects of the Intellectually Disabled Persons' Services Act 1986 and the Disability Services Act 1991 and replace many of those provisions in a single act to be called the Disability Act. It is a bill of 250 clauses spread over 230 pages, and in the 15 minutes available to me I am scarcely going to scratch the surface of some of those provisions within the bill, but I intend to use those 15 minutes to embark upon a broad-brush description of some of the aspects of the bill we have before us tonight and some of the issues associated with it.

There is absolutely no doubt that this bill will have a profound impact on people with disabilities. It will have a profound impact upon the carers of those people, it will have a profound impact upon the families of those people and it will also have a significant impact on service providers within the disability sector.

I go back to one thing the Honourable Bill Forwood said in his comments when he stressed the need to get it right. Legislation of this nature does in fact need to be right. That is a universal view held by all speakers in this chamber tonight — members of the government, the opposition and The Nationals have all stressed the need to get it right. People who have publicly participated in the debate and the review process have stressed the importance of getting it right. But I also say that it is the view of everyone involved in this debate, apart from members of the government, that in its current form this legislation is not right and that it needs to be addressed. Hopefully there will be processes yet to be followed that will address those issues.

It is a bit of a shame that it is not right, because up to the point where we are today it has been a somewhat lengthy process. The second-reading speech says the process of developing this legislation started in May 2003. I well know that it did start at that point in time because I attended one of the initial meetings held at the convention centre in Traralgon where the first phase of

this review of legislation took place. I sat alongside carers, people with disabilities and service providers to discuss some aspects of the current legislation, what its deficiencies were and where we should be heading. That process started almost three years ago, in May 2003, yet there are still major concerns that need to be addressed.

In accordance with the issue that we need to do more work on this to get it right, The Nationals, along with the Liberal Party, moved a reasoned amendment in the Legislative Assembly seeking to defer debate on this legislation for a period of three months. That was a further attempt to get the legislation right. Unfortunately that option was rejected by the government. Our next best option therefore is to pursue what is now available to members of the Legislative Council, and that is to take this legislation to the Legislation Committee and see if we can improve the legislation through that process.

It is my fervent hope that the government of the day will enter this process through the Legislation Committee with some sincerity and will constructively and open-mindedly work towards improving the legislation. Too often I have seen government representatives sitting in the committee stage being very defensive about the legislation they were presenting to the Parliament and not being prepared to listen to arguments or accept and take on board suggested changes.

More than with any other legislation I know of that has gone through this chamber the government needs to be open-minded and accepting of change and improvement in respect of this legislation. The process that we are about to enter for the first time ever in the 150-year history of this chamber provides the government with the opportunity to be open-minded and receptive to change. This is too important not to get it right. It is a golden opportunity for the government to show that it is flexible, sincere, open-minded and prepared to address the deficiencies that currently exist in the legislation.

We were very disappointed to learn today that the government is not prepared to take on board the motion suggested by my colleague the Honourable Damian Drum that would enable expert witnesses to appear before the Legislation Committee to express a view about this legislation. If there were ever any legislation that I could think of this where members of the Parliament as a whole should personally listen to the views expressed by experts in the area, this is one. It is an emotional and impassioned area, but it is also a very complex area, and I would be the first to admit that it is

difficult to understand the complex processes involved in disability legislation and its impact on those with a disability, the carers, the families and the service providers.

We need the experts to provide us with this advice. The Parliament would be far better informed had the government been prepared to accept Mr Drum's motion and allow some of those expert witnesses, such as Margaret Ryan, Jean Tops and Max Jackson, who were named in the motion discussed this morning, but I would say there are probably others we could equally well call upon to provide invaluable advice and evidence to the legislation review committee. It is unfortunate that the government has chosen not to allow that to occur, and in the absence of that occurring and because of the inability of some of those experts to present to the Legislation Committee, I have no recourse but to reiterate some of the views of those experts who have contacted me in relation to this particular piece of legislation, and I will do that.

First of all I want to go to the submission made by the Council of Intellectual Disability Agencies and talk about some of the views it has expressed. CIDA is one of the expert bodies, and we should pay due regard to its members' views on this legislation. The executive officer of CIDA, Sue Jackson, wrote to me on 21 March — I presume she also wrote to all others in this chamber — expressing views about the Disability Bill in the form it has been presented to Parliament. The letter says:

There is a real danger that people with intellectual disabilities could be left worse off —

if this legislation were to pass through Parliament. It goes on to say:

We are especially concerned by what we consider to be major deficiencies in the sections of the bill which deal with accessing services and individual planning. We are also concerned by what appears to be an inappropriate shifting of responsibility from government on to non-government disability services in those and other sections of the bill.

...

There is no reason for the bill to be rushed through — the act is not scheduled to come into force until July 2007.

In a rather lengthy submission CIDA identifies the five major areas that need to be addressed. They are: access to services, planning, abrogation of key responsibilities by government and inappropriate shifting of responsibilities from government to non-government service providers, inappropriate infringements on the corporate sovereignty of non-government organisations, and conflicts of interest for the

Department of Human Services, the secretary of the department and for the Minister for Community Services which are embedded in the bill.

I will not have time to go through each of those issues, but access to services is a major issue that should be addressed in the bill. I find it absolutely extraordinary that the processes which enable people with disabilities to access services is made more difficult under this piece of legislation. Instead of a single point of entry to access services through the local Department of Human Services regional office, which makes an assessment of the disability and the type of service that the people need, as applies under the current legislation, under this bill a person must first of all make a request for services through a disability service provider, and the provider may choose to agree or disagree that that service is required. The person must then undergo an assessment. If the person is refused services because the provider does not believe they are eligible, the person may go back to the secretary of the department for a reconsideration of those issues. Clause 49(4) under division 2 of part 4 on page 58 of the bill clearly spells out the new process. It is a greatly more convoluted process than the present one and is a significant impediment for people with disabilities who need to receive services. I know CIDA has suggested that division 2 of part 4 of the bill should be redrafted.

CIDA goes on to expand upon four other major areas of deficiencies within the bill. Again I do not have the time to go through each of those areas.

I mentioned before the wish of The Nationals to call expert witnesses to the Legislation Committee. One of those mentioned was Jean Tops. Jean is one of my constituents — dearly loved, I might add — whom I have come to know very well over the period I have served in this Parliament. I was elected to Parliament in October 1988, and I think I met Jean in November 1988. She was then a full-time carer with the Latrobe Valley Residential Services Association. Eighteen years on she is still a full-time carer, and she does an absolutely magnificent job, but also she does a magnificent job as an advocate for people with disabilities at the statewide level as well as in her region. She is also current president of the Gippsland Carers Association, which I think she started. She has worked tirelessly for people with disabilities both in the Gippsland region and across the state. Jean has also contacted many members of Parliament. Her name has been mentioned already, but she also made significant submissions in the whole process leading to the bill coming before us tonight.

Jean sent me a copy of her response to the exposure draft Disability Bill. It comprises 19 pages of significant detail. I do not have time to go through all those tonight, but I commend her on the depth and thoroughness of her submission. She also sent me five detailed pages of what she considers to be major flaws and omissions in the bill, all of which reinforces in my mind why we need people like Jean Tops to appear before the Legislation Committee. She has more knowledge than any single member of this chamber and could add much to our deliberations on and considerations of the bill. Jean was extensively quoted in an article that appeared on the front page of the *Latrobe Valley Express* of Monday, 27 March, headed 'Carers call for new legislation to be scrapped — disability anger'. Jean Tops is a well-respected citizen of Gippsland, one that we should be taking notice of.

Another person for whom I have equal admiration is Margaret Ryan, who has been another long-term advocate for people with disabilities in this state. Over the years Margaret has also made herself readily available to members of Parliament and has provided us with good advice and information on the situation of Victorian people with disabilities and their needs. I listened with interest to the Honourable Bill Forwood's reference to a letter he received from Margaret just yesterday. Margaret also wrote to the *Latrobe Valley Express* on Thursday, 30 March. In her letter headed 'Disability Bill angst is far-reaching' she talked about the whole concept of a family and a carer — those people who provide that necessary and invaluable support to people with disabilities and who are ignored in the bill. She also made the excellent point that no distinction is made between a person under 18 and an adult person with a disability. It seems that the legislation is deficient in acknowledging the differences between the legal requirements and needs of a child with a disability and those of an adult with a disability. Had I had time I would have quoted some of Margaret Ryan's letter, which is worthwhile reading.

In conclusion I want to say in the 1 minute left of my speaking time that like every other speaker from either the opposition or The Nationals benches tonight, I sincerely hope the government will make appropriate use of the Legislation Committee process and not just use it as a shop-front exercise. Too often it has happened that the government has embarked upon a process — a charade — of consultation and detailed consideration with no tangible outcome. In this instance the government has a rare opportunity to fix entrenched deficiencies in disability legislation, and I sincerely hope that it grasps that opportunity and for once matches the rhetoric espoused in the second-reading speech with real action, real consideration, real care and

real understanding of the needs of people in this state with disabilities.

**Hon. C. D. HIRSH** (Silvan) — To be a parent or a family member of a person with a disability, especially a child with a severe disability of any sort, is a great tragedy and is a cause of ongoing grief throughout the life of the carer. Combined with the love that one has for one's family is the need for care of the person. The role of the state has changed dramatically. In the last century — almost fifty years ago; I could not believe it when I added it up — I went out to visit Kew Cottages as a student training in special education. I was horrified to see the residents of Kew Cottages then. I guess all those residents would be long dead by now because they were adults who were unable to walk, having time outdoors on concrete, suffering from incontinence and having no stimulation at all.

I wept copiously and I went into special education after that and worked in that field for some time, but I will never forget the horror I experienced at the way we as a society treated people with intellectual disabilities in those days. Some 20 years after that I went to work at Kew Cottages when it was discovered that these so-called ineducable people were perfectly educable at a certain level of rights and of development of individual learning. I wrote training programs for these so-called ineducable residents at Kew in the 1970s.

**Ms Hadden** interjected.

**Hon. C. D. HIRSH** — In 1986 the state government passed the first of an absolute state-of-the-art innovative, important piece of legislation, the Intellectually Disabled Persons' Services Bill. I spoke on that bill on 20 March 1986, and in fact I went to the library and retrieved a copy of that speech before my contribution tonight. That legislation was all right, it was great at the time, but it is 20 years old and it is archaic. The distance we have come in the 20 years since we first passed that wonderful Intellectually Disabled Persons' Services Bill is absolutely extraordinary, and there is a need for new legislation.

That legislation separated intellectual disability from mental health. It finally acknowledged that people who had an intellectual disability were not mentally ill, they had some form of disability that required some kind of extra support and help in order for them to become independent people to the best of their ability, living in society wherever possible. The Labor government in power in the 1980s moved people from institutions. It closed the Janefield Training Centre; it closed St Nicholas hospital; it closed a range of institutions

and began moving people with intellectual disabilities into community residential units.

**Ms Hadden** interjected.

**Hon. C. D. HIRSH** — A very dear friend of mine who had a daughter at St Nick's was very troubled — —

**Ms Hadden** interjected.

**Hon. C. D. HIRSH** — I inform the Acting President that it is extremely difficult to speak against a barrage of shrieking from the member opposite.

**Ms Hadden** — It is a bit hard, the truth, isn't it, when you are flogging off our Crown land and Kew Cottages to your developer mates.

**Hon. C. D. HIRSH** — I point out to the Acting President that this is important legislation and the constant barrage of shrieking — —

**The ACTING PRESIDENT (Mr Smith)** — Order! I ask the member to direct her comments through the Chair. She should continue her contribution and ignore the contribution from the member opposite.

**Hon. C. D. HIRSH** — Excuse me, Acting President, but it is an ongoing shrieking.

**Ms Hadden** interjected.

**The ACTING PRESIDENT (Mr Smith)** — Order! If Ms Hadden wants to contribute to this bill she can in due course and she will be given her opportunity. Until that time I ask her to keep silent.

**Hon. C. D. HIRSH** — I thank the Acting President very much. I feel fairly upset at this trivialisation of such important legislation that is finally taking into account the needs of all people with disabilities, whether it be an intellectual disability, a physical disability or any other disability. The definition of 'disability' in the bill is consistent with the target group for the state disability plan from 2002 to 2012 and the requirements of the commonwealth-state territory disability agreement. The target group is defined Australia-wide.

The background of this legislation is that over the last two years the government has conducted a very comprehensive review of the disability legislation, structured in four phases to ensure that the issues and interests of all stakeholders are considered. The release of the exposure draft of the Disability Bill took place as part of phase 3 of the review. After the exposure draft was released there were 77 responses. All of this was taken into account on top of the thousands of

submissions that had been received previously, and all of this work went to inform the current legislation.

There has been a lot of discussion about those very caring and very passionate people who have problems with the bill. I do not believe those problems are there. There is no doubt that Julian Gardner, for example, does suggest that the bill go ahead without delay because it represents a significant progressive step in protecting and promoting the rights of people with a disability. It is therefore important that it proceed as soon as possible so that the valuable work on implementation can commence with certainty. Once this bill becomes an act there is a great deal of work to be done between government, non-government organisations and the community in preparing those implementation procedures that are necessary for the bill to start working.

The objectives of the bill say it all. The bill's objectives are to:

... facilitate the planning, funding and provision of services, programs and initiatives for persons with a disability ...

...

... support the provision of high quality disability services ...

... make disability service providers accountable to persons accessing those ... services ...

... ensure the efficient and effective use of public funds in the provision of disability services.

That last provision cannot be discounted. It would be wonderful to pour unlimited funds into this sector — I would love to see it. In fact since the Labor government came into office it has increased disability funding by 73 per cent — more than 20 per cent over the growth of the state's finances. There has been a proportionately higher increase in funding for disability services. The way we support people with disabilities is important. Instead of treating these people more or less as not human, as happened half a century ago, we now recognise that anyone with a disability is a citizen of the community, not just a client — —

**The DEPUTY PRESIDENT** — Order! I am having some difficulty with the noise from members on my left. It is very difficult for Ms Hirsh to continue with that barrage of background noise. I ask Ms Hadden and Mr Hall to give the member speaking a bit more respect.

**Hon. C. D. HIRSH** — This bill is the first real reform of our disability legislation since the introduction of the Intellectually Disabled Persons' Services Act in 1986 by the Cain Labor government of

which I was a very proud member. It is always Labor governments that reform the system. Nothing happened in disability services under the Kennett government except cutting and slashing. It is Labor governments that reform.

This government has made Victoria more accessible by mandating disability action plans in all government departments so that disability is something that is taken into account across government — there is a whole-of-government approach. It has introduced Victoria's first-ever state disability plan outlining a far-sighted vision for a Victoria where diversity is celebrated and where all people, regardless of disability, are included. As I have already said — and it is worth saying again — a 73 per cent increase in spending on disability services has occurred since Labor came into government in 1999, which is more than 20 per cent above the growth of the state's finances.

Fundamentally this government has changed the way it delivers supports to people with disabilities, creating a new system where supports are built around the person, rather than the person having to fit into whatever the government cares to provide — and 50 years ago this was a ward with a concrete slab.

**Ms Hadden** — This is embarrassing.

**Hon. C. D. HIRSH** — It was a lot worse than embarrassing; it was an absolute tragedy for the families — —

**Ms Hadden** interjected.

**The DEPUTY PRESIDENT** — Order! Through the Chair, Ms Hadden and Ms Hirsh! That is enough across-chamber exchanges. Ms Hirsh has 1 minute 42 seconds in which to complete her speech.

**Hon. C. D. HIRSH** — For the families who had a child who was born with a disability 20 or 30 years ago and were told by doctors, 'Put her away, dear, and forget about her', the tragedy was worse than just having a child with a disability and needing to provide care for them.

What this government has done is provide good, proper services for people with disabilities right across the state. I urge members of the opposition and The Nationals to ensure that they support this legislation in the long term. To be honest, as far as Ms Hadden — the Independent member who has been shrieking throughout my contribution — goes, she probably has no idea of what is going on. I commend the bill to the house. I am so pleased that this government is moving

forward with provision for those of us in the community who suffer from a disability.

**Hon. RICHARD DALLA-RIVA** (East Yarra) — I rise to make my contribution on behalf of the Liberal Party — —

**Hon. C. D. Hirsh** interjected.

**The DEPUTY PRESIDENT** — Order! Ms Hirsh!

**Hon. RICHARD DALLA-RIVA** — I place on record my disappointment that this bill has not at this stage received unanimous support across the chamber. It is disappointing because there is a real opportunity, as previous speakers have alluded to. There needs to be a change in the way that disability has been dealt with in this state over the last 20 years. It is 20 years since the Intellectually Disabled Persons' Services Act was enacted. I think there is a real opportunity now for us to look at the way it has been operating. I am disappointed because I know the Parliamentary Secretary for Community Services, the member for Derrimut in the other place, is in the gallery taking a direct interest in — —

**Mr Viney** — On a point of order, Deputy President, the member knows he should not refer to people in the gallery. I ask you to call him to order and to suggest that members should address the chamber and stop discussing the fact that others are in the gallery or in the box.

**Hon. RICHARD DALLA-RIVA** — I was giving him praise, you idiot!

**The DEPUTY PRESIDENT** — Order! The member should be aware from the standing orders of this chamber that reference cannot be made to people in the gallery, otherwise it is incumbent on the Chair to have those people removed. I ask Mr Dalla-Riva to continue without such reference.

**Hon. RICHARD DALLA-RIVA** — I am disappointed with the interjection, because I was going to praise the Parliamentary Secretary for Community Services. We should acknowledge people with a particular interest in this bill. I know people in the disability sector will go in depth through each of our speeches. Having read *Hansard* from the other place I know there has been constant reference to the member for Derrimut and his understanding of the sector as opposed to the understanding shown by the minister. We have to acknowledge a parliamentary secretary who has an intense interest in this area. By contrast the minister has been quite obstructionist.

I note the disgraceful discussions that occurred on 29 March in the Legislative Assembly between the shadow Minister for Community Services and the minister when it was quite clear that the minister was still trying to gag the shadow minister during her contribution. The interjections can be read in *Hansard*. They go to the very point that the disability sector has been trying to make — that is, that you cannot rush this process. I am sure that the parliamentary secretary, with his knowledge and his views — given he has had the role since 2002 — would fully understand the frustrations that those in the disability sector, including carers and service providers, have been feeling as a result of the consultation process.

Without doubt this bill is very important, and I would like to say that we support it, but it is difficult to support a bill when the sector does not give it its full support. That is what frustrates me. This sector does not need political point-scoring.

**Hon. C. D. Hirsh** — That's right. It is a pity.

**Hon. RICHARD DALLA-RIVA** — It is a pity, Ms Hirsh — and it is a pity that you did not raise the concerns of the various organisations that I am sure have expressed the very same concerns to you and to every other member in this place and in the other place about this bill. We can go into great detail about the bill, and I know we will go to the various clauses when the bill goes into the committee stage, but for me it is the underlying principle of the bill and the fact that we do not seem to understand that consultation needs to be undertaken.

When reading in *Hansard* the debate in the other place I noted an interjection that I want to put on the record here which demonstrates some of the belief systems the government has about what it calls the consultation process. In his contribution in the other place the member for Rodney referred to the fact that this is a very detailed bill. By way of interjection the member for Melton said that the consultation had taken three years. It is important to put — —

**The DEPUTY PRESIDENT** — Order! Standing order 9.14 states that:

No member will allude to any debate in the Assembly in the same session.

While the member is not quoting from *Hansard* word for word, he is paraphrasing very closely. I remind the member that he must adhere to that standing order.

**Hon. RICHARD DALLA-RIVA** — Thank you, Deputy President. I am trying to make a contribution

about members and their belief systems. I can say quite honestly that I am probably one of the few people who has worked in the disability sector. Anyone who has ever worked in that sector will understand the frustrations that one sees with carers and the like and the day-to-day grind that they go through.

**Mr Viney** interjected.

**Hon. RICHARD DALLA-RIVA** — They do not need the additional day-to-day grind, Mr Viney, of having to trawl through 242 pages of material and of not being backed up by the relevant support agencies — —

**Ms Hadden** — Or the funding!

**Hon. RICHARD DALLA-RIVA** — Or the funding. But I do not want to get into a debate about the funding issue, because it has been raised many times before. We will get into the minutiae of the bill in the committee stage, but for me this is about the underlying principles. This bill has not been properly thought out, and we have seen that time and again, including Sue Jackson from the Council of Intellectual Disability Agencies, who said the organisation wanted the matter adjourned for two months. Carers Victoria has been concerned that the bill should be delayed. The Equal Opportunity Commission said:

The time frame allowed for public comment about this bill is inadequate.

South Gippsland carers groups said:

The response time to this document highlights the disregard to family carers.

The Victorian Council of Social Services said:

... we strongly urge you to delay the debate on the Disability Bill by two months —

and it goes on.

What is the rush for the sake of a couple of months and for the sake of the credibility of the minister? The bill will not come into force until 1 July 2007. I cannot see any valid reason, other than the rhetoric of the government, for pushing this through when organisations, groups and individuals are saying, 'Please delay it. We do not disagree with it. There might be some finetuning we need to undertake, so please delay it'. I cannot understand why the government wishes to push this through.

In a letter Margaret Ryan said:

The most telling omission from the Disability Bill 2006 is the omission of the word 'parent'.

Parents in the disability sector see their role as crucial to the bill. I accept that the bill is relevant and important and should be considered. If it were not for the fact that there has not been enough support given to it by the various organisations, I would support the bill. I would say, 'Yes, let's move forward. Let's get it going'. But it is hard for me to stand up here and say, 'We are going to support it. Don't worry about the people who have to work with it'.

I do not know whether it has been basically a communication issue, but for some unknown reason we have got all these organisations vehemently seeking to have the matter deferred. They are not saying get rid of it. They are saying, 'Let's have a look at it in a bit more detail. Let's not run and close it before Christmas. Let's look at the situation'. Then we — the opposition, The Nationals, the Labor Party and the Independents — can move together collectively and say, 'What a great bill', as the bill initially was back in 1986 and then in 1991. We can say, 'Yes, this is a great bill. Let's move forward on the Disability Bill. Let's move forward in understanding people with a vast array of disabilities in our community'.

As I said, I think the parliamentary secretary, the member for Derrimut in the other place, has a better and broader understanding of this issue than the minister. Those in this chamber would know that I would never support a member from the government side, but on this occasion I have a responsibility. Given the information I have, I think the parliamentary secretary has a lot more understanding, and if he were the minister he would be a bit smarter and say, 'No. Let's not proceed with that'. Maybe he should be the minister, because I think if he were the minister he would at least sit there and say, 'Look, I understand the community groups. I have been out there long enough, and I understand their needs. I am not a fly-by-night, last-minute minister who has no understanding of the issues and wants to rush it through for the glory of spin and glossy brochures'.

That is a disappointing point that I had to raise, and unfortunately on that basis I am going to have to say that I do not support the bill. It is not that I do not support what the bill is intended to do; I do not support the bill in the sense that it has failed to engage the various people who need to be engaged to work with the bill and work with the government and say, 'Yes, this is a great opportunity for us to move forward into this century with people who have mild, severe or whatever disabilities'. For that I am truly sad.

**Mr VINEY** (Chelsea) — I appreciate the opportunity to speak on this bill, and I am looking

forward to continuing my contribution tomorrow. Let me say at the outset — —

**Business interrupted pursuant to sessional orders.**

## LAND (ST KILDA TRIANGLE) BILL

*Introduction and first reading*

**Received from Assembly.**

**Read first time for Hon. J. M. MADDEN (Minister for Sport and Recreation) on motion of Mr Lenders.**

## ADJOURNMENT

**The DEPUTY PRESIDENT** — Order! The question is:

That the house do now adjourn.

**Lorne Community Association: building grant**

**Hon. J. A. VOGELS** (Western) — I raise an issue for the Minister for Victorian Communities in the other place. It concerns a community building initiative grant applied for by the Lorne Community Association. The association was very happy to hear that its submission was successful to the tune of \$110 000. However, it is surprised and disappointed to now find that even though it is an incorporated association, audited annually, it will not receive the funding it successfully applied for. In fact the funds will be administered by the Barwon-Corangamite Country Fire Authority. While I have the greatest respect for the CFA, what expertise does it have to bring to the table that is not already understood by the Lorne Community Association?

Surely the locals have the skills and knowledge about what is needed in the Lorne community. They are very grateful that they successfully applied for this grant of \$110 000 but now find they are not going to be in charge of this grant. It is going to go to the Barwon regional CFA. I would have thought the CFA would be flat out applying for its own funding without worrying about what the Lorne community is doing. If a steering committee is to be appointed to oversee the disbursement of this grant, will members of the Lorne Community Association make up the majority of its membership and therefore also the chairmanship?

The action I seek from the minister is to make sure that the moneys granted by his department for community building at Lorne is given to the successful applicants — that is, the Lorne Community Association. If its submission and application were

good enough to gain approval from the minister's department — in other words, it filled in the 39 pages necessary to receive the grant — why is the grant now not going to the Lorne Community Association? Obviously that is where the grant should go, not to some third party, no matter how capable the CFA is in doing the jobs it has to do. I want to stress I am not criticising the CFA for the work it does.

The Lorne Community Association applied to the Department for Victorian Communities for a grant of \$110 000, which it was successful in achieving. It now finds that the \$110 000 has not gone to it at all but has gone to a regional CFA which would not understand the issues in the Lorne community.

### **Rail: gauge standardisation**

**Hon. B. W. BISHOP** (North Western) — My adjournment matter this evening is directed to the Minister for Transport in the other place. The action I require from the minister is to inform me of the government's plans to upgrade and standardise Victoria's rail network. The reason behind this request is that the 2000–01 budget of the Bracks government allocated \$96 million to the project. While that is not enough, it would be a good start.

As the house is aware, the Mildura line was to be done first, along with the Robinvale and Swan Hill lines, to be finished by 2002, with the balance of the state network to be completed by 2005. Two thousand and two came and went, and so has 2005, and not one spike has been driven on any of these lines, which is a disgrace and a broken election promise.

Another election promise by the Bracks government, and the member for Mildura, was that the passenger train would return to Mildura. That was again confirmed by the Premier when he brought the cabinet to Mildura in 2005. 'The train will return', he said. The question is: will it? Or should the question be: can it if the track is not upgraded and standardised? There is about 450 kilometres of rail track to be done, and if a new line were to be built it would cost about \$1 million per kilometre, so the experts tell us. However, given the fact that the land is acquired and the ballast is there, as are most other things, a reasonable estimate is \$300 million to do the job.

A couple of years ago the commonwealth offered \$20 million to assist with the standardisation, and I suspect it was also wondering what was going on with this project, which is essential to country Victoria. There has, of course, been a blame game with the Independents, who would not blame the current

government because they put it into power, and the Minister for Transport making an art form out of blaming everyone else. The community is sick of all the blame games. It knows the government has been in for seven years and now it is time for it to get on with the job. In fact the government has been in long enough for some members to forget their blame game lines. Last week Mr Viney said the Kennett government closed the Mildura line, which is wrong. It is still open: a train a day into Port Melbourne from Wakefield Transport's operations. However, the track is in terrible condition and must be upgraded at the very least.

We have already lost some mineral sands business to New South Wales and South Australia because of the track, and our freight costs are high due to track inefficiency. It is really frustrating when the government splurges over \$1 billion on the slightly faster train for little gain when those resources could have fixed the Mildura line and provided a 200-kilometre northern rail link into the Transcontinental, which would have given us direct access into Darwin and other Australian ports. The action I request from the minister is to inform me when the Mildura line will be upgraded and standardised — and if not, why not?

### **Buses: NightRider service**

**Hon. G. K. RICH-PHILLIPS** (Eumemmerring) — The matter I raise with the Minister for Transport in the other place relates to the provision of the NightRider bus service throughout the south-eastern suburbs. I have received representations from Mike Tyler, the chief executive of the City of Casey, seeking an extension of that service into the Casey area. As Mr Tyler notes, currently the service is provided down the peninsula to Frankston and Mornington, which are at a similar distance from the central business district as the city of Casey, but the south-eastern service terminates at Dandenong. The enormous population of young people in the city of Casey does not have access to the NightRider service.

The letter I received from Mr Tyler notes that over the next 10 years there will be an estimated 58 000 people aged between 10 and 24 years, and of those 46 000 will be between the ages of 10 and 19 years. There is definitely demand in the outer south-east for an extension of the NightRider service, and the City of Casey in particular would like to see the service extended into Cranbourne, Endeavour Hills, Narre Warren and Berwick, being the key centres in the city of Casey.

I seek the assistance of the Minister for Transport in ensuring that consideration is given to the existing NightRider services being extended beyond Dandenong into the city of Casey.

### **Greater Geelong: swimming pool upgrades**

**Hon. J. H. EREN** (Geelong) — I wish to raise a matter with the Minister for Sport and Recreation, the Honourable Justin Madden. I know that this government is very mindful of a healthy Victoria and encourages physical activity and has initiated a lot of good things, like they Go for Your Life campaign and other initiatives. Obviously swimming is an activity that keeps you fit and healthy, and a lot of my constituents in the northern suburbs of Geelong make full use of the two swimming facilities we have in that region.

**Hon. J. A. Vogels** — Do you like swimming?

**Hon. J. H. EREN** — I do, actually. The two public swimming facilities are the Lara swimming pool and Norlane Waterworld. Both these facilities are widely used by the community and are a hub for healthy physical activities in the northern suburbs. But they are getting to a stage where they need some attention and revitalising. The action I seek is for the minister to have his department take the necessary steps to ensure that these two facilities are considered for any future funding that may be available to upgrade them and maintain them so that all in the northern suburbs can enjoy these facilities.

**Ms Hadden** — The northern suburbs; where is your electorate?

**Hon. J. H. EREN** — Norlane and Lara are in the northern suburbs of Geelong, for Ms Hadden's information. Even though we have some of the most beautiful beaches in the world, our locals still like to swim in their local pools.

I have been informed that these facilities had been funded solely by the City of Greater Geelong in recent years and that no state moneys have been used. I am also informed that the City of Greater Geelong is looking to spend about \$600 000 on the outdoor area at Norlane Waterworld and carrying out some maintenance work on the tiles on the main swimming pool. This will go a long way towards making it an even better facility, but lots more needs to be done, and therefore I am seeking the assistance of the minister in relation to this matter.

### **Gas: rural and regional Victoria**

**Hon. PHILIP DAVIS** (Gippsland) — I am raising a matter this evening for the attention of the Minister for Energy Industries, who I notice is not present, but I am confident the Leader of the Government will bring this matter to his attention, if he is at all interested.

My attention has been drawn to a brochure about an expo to be held tomorrow in Woodend by SP AusNet in relation to natural gas. I guess this is in connection with the government's self-proclaimed natural gas extension program, which has been the subject of much debate in this place but has been mostly hot air in country Victoria.

After many announcements during the 2002 election campaign and a mini campaign by the government in 2004 — out of embarrassment that it had failed to do anything about its promise — reticulations for further towns were announced. During 2005 the government acknowledged that many communities would not receive the natural gas previously promised, and they include Avoca, Wandong, Terang, Bright, Beechworth, Myrtleford, Alexandra, Bonnie Doon, Eldorado and Porepunkah.

**Ms Hadden** — What about Smythesdale?

**Hon. PHILIP DAVIS** — I will get to Smythesdale in a moment, thank you, Ms Hadden. A number of other towns have not heard anything — that is to say the government has made no announcement whatever. That is an unreasonable position. Given that the government had previously committed to extending natural gas to them, at this point these communities are in an uncertain position, and they include Heywood, Smythesdale, Nathalia and Yea.

I can only ask for one action, but there are two issues — one is the government's failure to clarify the position of at least four towns that have received no advice as to when or if they will receive any assistance with reticulated natural gas, and the other is the matter of the towns where the government has reneged on previous policy commitments. I therefore ask: will the minister advise me so I can advise those communities when they will receive the natural gas that has been promised to them?

### **Whitehorse: indoor sports facility**

**Hon. B. N. ATKINSON** (Koonung) — I wish to raise a matter with the Minister for Education Services in another place. I want to bring to her attention an application that was made by the City of Whitehorse for funding from the Department of Education and

Training towards a joint youth facility to be established near Livingstone Primary School. This would be an indoor sports facility particularly catering for netball. Whitehorse City Council undertook a detailed feasibility study in 2005 to determine a location and composition that might suit community needs for an indoor sports facility within the municipality. After a very comprehensive study that involved significant consultation and research it selected this site alongside Livingstone Primary School in Vermont South.

It is interesting that Livingstone Primary School has an extensive history — going back to the 1970s — of joint community-school facilities. It would seem to me to be a very good choice to have a partnership between that school community and the broader Whitehorse community. The facility was welcomed by a number of organisations which thought they would be able to access this indoor sports stadium, particularly the netballers. A very vigorous and successful netball competition is based around Vermont South but at this stage they play on courts that are little better than car parks and long ago outlived their effective life spans, notwithstanding good maintenance by the council and good management by the netballers themselves.

This facility is very much needed. One of the problems the council has now is as it approaches its capital budget planning, in the spirit of responsible financial management, it finds it has some difficulty in forward planning because there has been no indication from the Department of Education and Training as to whether funding will be forthcoming to cover the state government's share of this joint venture project. Indeed, I think the government talked to the council in the context of the Community Support Fund. I therefore ask the minister to advise me and the council of the outcome of the council's funding submission for this particular project.

### Responses

**Mr LENDERS** (Minister for Finance) —

Mr Vogels raised an adjournment issue for the Minister for Victorian Communities in another place regarding Lorne. I will pass that on to the minister for his response.

Mr Bishop raised a matter for the Minister for Transport in another place regarding standard rail gauge issues. I will pass that on to the minister.

Mr Rich-Phillips also raised an issue for the Minister for Transport but it was regarding bus services in his electorate. I will raise that with the minister for his attention.

Mr Eren raised an issue for the Minister for Sport and Recreation regarding healthy Victorians. I will pass that on to the minister for his response.

The Leader of the Opposition raised an issue for the Minister for Energy Industries regarding gas pipelines. I will pass that on to the minister for what I am sure will be an effusive response.

Mr Atkinson raised a matter for the Minister for Education Services in another place regarding a joint sports facility in Whitehorse. I will pass that on to the minister for her response.

**House adjourned 10.18 p.m.**

## CURRENT DISABILITY STATISTICS

<b>Service group</b>	<b>Victoria</b>
<b>Accommodation Support</b>	
No. of service users	12,989
Potential population	165,315
Service users/1,000 potential population	78.6
<b>Community Support</b>	
No. of service users	28,485
Potential population	165,315
Service users/1,000 potential population	172.3
<b>Community Access</b>	
No. of service users	18,441
Potential population	165,315
Service users/1,000 potential population	111.6
<b>Respite</b>	
No. of service users	<b>8,607</b>
Potential population	51,205
Service users/1,000 potential population	168.1
<b>Employment</b>	
No. of service users	18,283
Potential population	79,161
Service users/1,000 potential population	231.0

Table prepared by Bill Forward, from information extracted from the Australian Institute of Health and Welfare: Disability Support Services 2003–2004