PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-FIFTH PARLIAMENT

FIRST SESSION

Thursday, 14 September 2006

(Extract from book 12)

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By authority of the Victorian Government Printer

The Governor

JOHN LANDY, AC, MBE

The Lieutenant-Governor

Lady SOUTHEY, AC

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Deputy Premier, Minister for Environment, Minister for Water and Minister for Victorian Communities	The Hon. J. W. Thwaites, MP
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Minister for Gaming, Minister for Racing, Minister for Tourism and Minister assisting the Premier on Multicultural Affairs	The Hon. J. Pandazopoulos, MP
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Minister for Energy Industries and Resources	The Hon. T. C. Theophanous, MLC
Minister for Consumer Affairs and Minister for Information and Communication Technology	The Hon. M. R. Thomson, MLC
Cabinet Secretary	Mr R. W. Wynne, MP

Legislative Council committees

Privileges Committee — The Honourables W. R. Baxter, Andrew Brideson, Helen Buckingham and Bill Forwood, Mr Gavin Jennings, Ms Mikakos, the Honourable R. G. Mitchell and Mr Viney.

Standing Orders Committee — The President, the Honourables B. W. Bishop, Philip Davis and Bill Forwood, Mr Lenders, Ms Romanes and Mr Viney.

Joint committees

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

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

Education and Training Committee — (*Council*): The Honourables H. E. Buckingham and P. R. Hall. (*Assembly*): Ms Eckstein, Mr Herbert, Mr Kotsiras, Ms Munt and Mr Perton.

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. (*Assembly*): Ms McTaggart, Ms Neville, Mrs Powell, Mrs Shardey and Mr Wilson.

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

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

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

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

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

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

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

Scrutiny of Acts and Regulations Committee — (*Council*): Ms Argondizzo and the Honourable Andrew Brideson. (*Assembly*): Ms D'Ambrosio, Mr Jasper, Mr Leighton, Mr Lockwood, Mr McIntosh, Mr Perera and Mr Thompson.

Heads of parliamentary departments

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

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

Parliamentary Services — Secretary: Dr S. O'Kane

MEMBERS OF THE LEGISLATIVE COUNCIL

FIFTY-FIFTH PARLIAMENT — FIRST SESSION

President: The Hon. M. M. GOULD

Deputy President and Chair of Committees: Ms GLENYYS ROMANES

Temporary Chairs of Committees: The Honourables B. W. Bishop, R. H. Bowden**,** Andrew Brideson, H. E. Buckingham, Ms D. G. Hadden, the Honourable J. G. Hilton, Mr R. F. Smith and the Honourable C. A. Strong

Leader of the Government:
Mr JOHN LENDERS

Deputy Leader of the Government:
Mr GAVIN JENNINGS

Leader of the Opposition:
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Deputy Leader of the Opposition:
The Hon. ANDREA COOTE

Leader of The Nationals:
The Hon. P. R. HALL

Deputy Leader of The Nationals:
The Hon. D. K. DRUM

Member	Province	Party	Member	Province	Party
Argondizzo, Ms Lidia	Templestowe	ALP	Jennings, Mr Gavin Wayne	Melbourne	ALP
Atkinson, Hon. Bruce Norman	Koonung	LP	Koch, Hon. David	Western	LP
Baxter, Hon. William Robert	North Eastern	Nats	Lenders, Mr John	Waverley	ALP
Bishop, Hon. Barry Wilfred	North Western	Nats	Lovell, Hon. Wendy Ann	North Eastern	LP
Bowden, Hon. Ronald Henry	South Eastern	LP	McQuilten, Hon. John Martin	Ballarat	ALP
Brideson, Hon. Andrew Ronald	Waverley	LP	Madden, Hon. Justin Mark	Doutta Galla	ALP
Broad, Ms Candy Celeste	Melbourne North	ALP	Mikakos, Ms Jenny	Jika Jika	ALP
Buckingham, Hon. Helen Elizabeth	Koonung	ALP	Mitchell, Hon. Robert George	Central Highlands	ALP
Carbines, Ms Elaine Cafferty	Geelong	ALP	Nguyen, Hon. Sang Minh	Melbourne West	ALP
Coote, Hon. Andrea	Monash	LP	Olexander, Hon. Andrew Phillip [3]	Silvan	Ind Lib
Dalla-Riva, Hon. Richard	East Yarra	LP	Pullen, Mr Noel Francis	Higinbotham	ALP
Darveniza, Hon. Kaye	Melbourne West	ALP	Rich-Phillips, Hon. Gordon Kenneth	Eumemmerring	LP
Davis, Hon. David McLean	East Yarra	LP	Romanes, Ms Glenyys Dorothy	Melbourne	ALP
Davis, Hon. Philip Rivers	Gippsland	LP	Scheffer, Mr Johan Emiel	Monash	ALP
Drum, Hon. Damian Kevin	North Western	Nats	Smith, Mr Robert Frederick	Chelsea	ALP
Eren, Hon. John Hamdi	Geelong	ALP	Somyurek, Mr Adem	Eumemmerring	ALP
Forwood, Hon. Bill	Templestowe	LP	Stoney, Hon. Eadley Graeme	Central Highlands	LP
Gould, Hon. Monica Mary	Doutta Galla	ALP	Strong, Hon. Christopher Arthur	Higinbotham	LP
Hadden, Ms Dianne Gladys [2]	Ballarat	Ind	Theophanous, Hon. Theo Charles	Jika Jika	ALP
Hall, Hon. Peter Ronald	Gippsland	Nats	Thomson, Hon. Marsha Rose	Melbourne North	ALP
Hilton, Hon. John Geoffrey	Western Port	ALP	Viney, Mr Matthew Shaw	Chelsea	ALP
Hirsh, Hon. Carolyn Dorothy [1]	Silvan	ALP	Vogels, Hon. John Adrian	Western	LP

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

[2] Ind from 7 April 2005

[3] Ind Lib from 30 November 2005

CONTENTS

THURSDAY, 14 SEPTEMBER 2006

Thursday, 14 September 2006

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

ROAD LEGISLATION (PROJECTS AND ROAD SAFETY) BILL

Introduction and first reading

Received from Assembly.

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

FUNERALS BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. M. R. THOMSON (Minister for Consumer Affairs).

PETITIONS

Water: fluoridation

Ms HADDEN (Ballarat) presented petition from certain citizens of Victoria praying that the Legislative Council of Victoria does not support the addition of fluoride to any Victorian water supply, including water in the Central Highlands and Grampians Wimmera–Mallee regions, in view of current scientific doubts regarding its safety (16 signatures).

Laid on table.

Moorabool: de-amalgamation

Ms HADDEN (Ballarat) presented petition from certain citizens of Victoria requesting that the Legislative Council of Victoria consider the de-amalgamation of the Shire of Moorabool due to the disproportion in demographics, wards and councillor representation, lack of central administration and council meeting point, economic inequity and disparity between the smaller residential Bacchus Marsh area and the larger rural areas in the north and west of the present shire structure (61 signatures).

Laid on table.

Children: parental access

Ms HADDEN (Ballarat) presented petition from certain citizens of Victoria praying that the Minister for Children and her parliamentary secretary intercede on behalf of a sole parent, whose identity is known by the Secretary of the Department of Human Services, with a request that the secretary broker access between that sole parent and her son at the earliest opportunity (1 signature).

Laid on table.

Water: fluoridation

Hon. P. R. HALL (Gippsland) 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 Gippsland region, in view of current scientific doubts regarding its safety (147 signatures).

Laid on table.

Gunbower Island State Forest: status

Hon. W. A. LOVELL (North Eastern) presented petition from certain citizens of Victoria praying that the status of the Gunbower Island State Forest and other red gum forests or parts thereof along the Murray River flood plain remains unchanged, and that — (1) these areas remain multi-use state forests; (2) access to forestry and firewood gathering continue; (3) local communities have input into the management of these areas; and (4) the Department of Sustainability and Environment be funded to a level that allows them to: (a) address pest animal and plant problems; (b) provide sufficient rubbish bins at forest exits; (c) improve and maintain access roads to protect forest areas from off-road driving; (d) employ more staff to look after forest areas; and (e) develop an ongoing education campaign to inform the public of their responsibilities while visiting and camping in forest areas (2528 signatures).

Laid on table.

COUNCIL OF MAGISTRATES

Report 2005–06

Hon. J. M. MADDEN (Minister for Sport and Recreation) presented report by command of the Governor.

Laid on table.

LAW REFORM COMMITTEE

Coroners Act 1985

Hon. RICHARD DALLA-RIVA (East Yarra) presented report, including appendices, together with minutes of evidence.

Laid on table.

Ordered that report be printed.

Hon. RICHARD DALLA-RIVA (East Yarra) — I move:

That the Council take note of the report.

In doing so I would like to put on the record that this is the second-last of the reports of the Law Reform Committee that will be tabled in the life of this Parliament. It is interesting that during this Parliament the committee will have tabled five reports. It is a testimony to the work effort that has been applied by a number of people on the committee.

I would like to put on record my sincere appreciation for the work of the chair, Mr Rob Hudson, the member for Bentleigh in the other place, with the support of Mr Noel Maughan, the member for Rodney in the other place, who is the committee's deputy chair. Members of that committee include Ms Hadden, who is presently in the chamber; the Honourable Geoff Hilton; the Honourable David Koch; Ms Dympna Beard, the member for Kilsyth in the other place, Ms Liz Beattie, the member for Yuroke in the other place; and Mr Tony Lupton, the member for Prahran in the other place.

I commend the work of the executive officer, Merrin Mason, and the research officers, in particular Michelle McDonnell, for their sterling work in the compilation of a very detailed report that goes to some 700 pages. Preparation of the report was assisted by Justin Ford and Katherine Brazenor. I cannot forget the work of the officer manager, Jaime Cook, who is always running around trying to do the best she can for a lot of the committee meetings.

This report came as a result of the need to review the coronial legislation in Victoria, which had not been looked at for more than 20 years. The last review was completed in 1980 by Sir John Norris, QC. The Coroners Act 1985 substantially implemented the recommendations of that review.

Members have just received this report, so I have some difficulty going through it in detail. There are 138 far-reaching recommendations. I also want to put on the record that many witnesses gave at times very emotional evidence to the inquiry. I know that many of them are in the Parliament today in both the upper and lower houses as we respectively present this report. I understand that emotions will still be overflowing as they review the report, and at some point they may be looking for some specific information about or reference to their particular issue.

We have taken a very good look at this particular act. We have taken into consideration the evidence, some of which was emotional, which was provided by the witnesses. Our view is that the purpose of the Parliament is to provide a better system that can meet the needs of people who have experienced a system that could at best be described as pretty average. The report goes to great lengths in trying to change the way the coroner, the coroners office and indeed the Coroners Act deals with deaths in our community. As I said, it was an emotional period.

A lot of people expressed their dismay at a range of systems that have been in place, whether that be the hospital system, their own personal dealings with the coroners office or the whole court process. We have tried to look at those issues against the backdrop of world best practice. Some committee members had the opportunity of examining coronial systems around the world, and we have been collectively able to now bring into Victoria what I think will be in the real sense a world-class coronial system.

There has been an extensive examination of this act, and I am very proud in my first term in Parliament to have been part of a review that will have far-reaching implications, not only for the way we deal with coronial issues, but for the way we deal with the emotional issues. Hopefully some of the things we heard about while conducting the inquiry will never happen again.

Hon. J. G. HILTON (Western Port) (*By leave*) — I would like to make a few brief comments on the tabling of the review by the Law Reform Committee of the Coroners Act. It was a great personal pleasure to work on this inquiry, and I believe that the report which is being produced will be very influential in the future.

I would like to commend the people who must take a great deal of the credit for the production of such a document. First of all I commend the chair of the Law Reform Committee, the member for Bentleigh in the other place, Mr Rob Hudson. Rob combined his legal skills with an attention to detail and a sensitive

chairmanship, enabling us to deal with all issues in an efficient and cooperative manner. I also commend the research team, in particular Michelle McDonnell, who did an absolutely tremendous job in distilling all the information the committee received into a form that is consistent, logical and yet readable. Her writing style is first class. The final report does great credit to Michelle and the rest of the secretarial team.

As my friend the Honourable Richard Dalla-Riva has done, I would like to compliment the families of people whose deaths have been investigated by the coroner and who gave evidence to the committee. I commend them for their bravery and overwhelming desire to improve the coronial process for all Victorians. The evidence produced by these families was very moving, and I trust the families involved find value in this report. I am very pleased to commend this report to the house.

Motion agreed to.

PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

Budget estimates 2006–07

Hon. BILL FORWOOD (Templestowe) presented report, including minority report and appendices, together with minutes of evidence.

Laid on table.

Ordered that report be printed.

Hon. BILL FORWOOD (Templestowe) — I move:

That the Council take note of the report.

At the outset I would like to say that this is another unanimous report from the Public Accounts and Estimates Committee. There is a minority report which deals with the issue of the electorate office of the member for Ivanhoe, but the body of the report was a unanimous report by the committee, and again I am pleased to be able to say that.

I should also thank the committee staff. This is a comprehensive report that has been brought together very quickly because of the election to be held in the near future. I am aware of the extraordinary effort the staff have put into assisting the committee to produce a report of this quality. They were ably led of course by the chair of the committee, Christine Campbell, the member for Pascoe Vale in the other place, who has put in an extraordinary number of hours in ensuring that the report has met the deadline of being tabled in this week of the sitting. The committee staff worked beyond the call of duty, and again I place on record the thanks of the committee to Michele Cornwell and her research team Pek Toh, Ian Claessen, Chris Sheard, Trevor Wood and Joe Manders. We are also very well served by the close relationship we have with officers from the audit office, which has a raft of experience in the way public sector finances work. To have people of that quality working for us is of great assistance.

However, I must again raise the serious concern I hold that government departments are deliberately trying to thwart the work of the committee, particularly by failing to provide information on time. The many hours that Ms Campbell has put into this report have included time spent hounding ministerial and departmental staff to provide fundamental information to the committee, not because the information has not been available but because they have not wanted to make it available.

I refer in that regard to the chapter on the Department of Human Services where the report deals in some detail with how long it took to get information about the launch of the Austin Hospital. Eventually, after many months, we found that the information we had been seeking had been given to the media and not to the committee, which was a contempt of the process and a contempt of the Parliament. The Department of Human Services has been very bad in this regard, but there are other departments as well that go out of their way to make the job of the committee difficult.

This committee operates on behalf of the Parliament and the people of Victoria, and the departments should give regard to the primacy of the Parliament. When the committee asks for information, it expects to receive the information in a timely and accurate manner.

Hon. W. R. Baxter — Hear, hear!

Hon. BILL FORWOOD — Thank you, Mr Baxter. It is of grave concern to me that during my 10 or so years of close association with the Public Accounts and Estimates Committee this situation has got worse and worse as the years have gone by.

Mr Lenders interjected.

Hon. BILL FORWOOD — I know that the Minister for Finance, Mr Lenders, who has a high regard for the standards of the Parliament, will be vigilant in ensuring that departments abide by the obligations that they have placed on them. It is sad that I have to report in that way.

This report is comprehensive, but it is shorter than last year's — this time it only just made the 500-page mark. Each chapter has some weight and some meat to it, and I recommend it to honourable members.

I will say a brief word on the minority report of the committee. The minority report deals with the problems associated with the handling of the issue of the electorate office of the member for Ivanhoe by the Parliament. It is appalling that this Parliament has not acted appropriately in that matter. Leaving to one side the fundamental issue of whether what was done should have occurred or not, the grave concern of the people who signed the minority report is that nothing has been done to resolve the issue, and that reflects very poorly on the Parliament.

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

Ms ROMANES (Melbourne) (*By leave*) — Thank you, President, for the opportunity to speak this morning on the Public Accounts and Estimates Committee report on the 2006–07 budget estimates. I would like to endorse what the Honourable Bill Forwood has said in thanking Michelle Cornwell and other staff in the secretariat for their dedication in progressing this report in record time.

I am disappointed that some members have seen fit to attach a minority report to what was otherwise a unanimous report on the budget estimates. Following Mr Forwood's comments, I would like to remind the house that the Premier and all ministers in the Bracks government and all department heads have appeared each year before the Public Accounts and Estimates Committee for seven years — over 50 hours of appearances. I do not agree with Mr Forwood's perception of the responsiveness of ministers and their departments in returning budget questionnaires and meeting time lines in the sharing of information with the committee.

I remind the house that the estimates report is presented to Parliament not just as a snapshot in time at budget time; it provides a broader overview. It is informed by past trends and reports and tracks performance and outcomes over a period drawing on information through the budget outcomes at the end of the previous financial year, and drawing on annual reports and the Auditor-General's specific performance reviews. It endeavours to paint a fuller picture of what is happening across government and fulfils our committee's responsibility for — —

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

Hon. G. K. RICH-PHILLIPS (Eumemmerring) (*By leave*) — I, too, want to make a comment on the Public Accounts and Estimates Committee's *Report on the 2006–07 Budget Estimates*. It was not my intention to comment on this report this morning until I heard the contribution from Ms Romanes about the responsiveness of government departments.

I commence my contribution by joining Mr Forwood and Ms Romanes in thanking the staff of the Public Accounts and Estimates Committee for their work in putting this report together. As always it has been a marathon effort and we are very pleased to see it introduced into the Parliament — I think probably for the first time — in September following a budget cycle.

But the issue I would like to touch on is the responsiveness of the Department of Treasury and Finance, and I am pleased that the Minister for Finance is in the chamber this morning. Mr Forwood noted there had been complaints within the committee about the unresponsiveness of the government, and I note some of the responses from the Minister for Finance to questions from the committee — for example, when he was asked about the book value of assets that were liquidated by the Transport Accident Commission in order to pay out the $600 million draw-down of capital rather than giving a dollar figure, the minister's response was:

> The TAC's investment portfolio is 'market to market' consistent with the requirements of accounting standards. The $600 million return of capital to government came from the liquidation of securities and cash and existing portfolios. The equities were sold at market value.

That should have been a simple figure answer, and this situation is repeated time and again throughout the report, where the Minister for Finance and Minister for WorkCover and the TAC has obfuscated in answering questions from the committee. Ms Romanes's claims that the government is responsive are completely false, and there is example after example of where the government, including the Minister for Finance, has failed to answer the committee's requests.

Motion agreed to.

PAPERS

Laid on table by Clerk:

> Auditor-General — Report on Government advertising, September 2006.

Auditor-General's Office — Report, 2005-06.

Members of Parliament (Register of Interests) Act 1978 — Summary of Returns, June 2006 and Summary of Variations notified between 15 June 2006 and 13 September 2006.

Parliamentary Committees Act 2003 — Minister's response to recommendations in Drugs and Crime Prevention Committee's report on the Inquiry into Strategies to Reduce Harmful Alcohol Consumption.

Police Appeals Board — Report, 2005-06.

Project Development and Construction Management Act 1994 — Orders in Council of 5 September 2006 of nomination and application orders (three papers).

Victorian Civil and Administrative Tribunal — Report, 2005-06.

BUSINESS OF THE HOUSE

Adjournment

Mr LENDERS (Minister for Finance) — I move:

That the Council, at its rising, adjourn until Tuesday, 3 October, at 9.30 a.m.

Motion agreed to.

MEMBERS STATEMENTS

Parliament: One Parliament project

Hon. BILL FORWOOD (Templestowe) — Since I spoke in this house on Tuesday in regard to One Parliament, I have been deluged by members of the staff coming to me, thanking me for what I said and outlining to me the climate of fear in which they work. A letter which arrived this morning says:

> The Speaker sent out an email earlier this week saying attendance records have been amazing and these courses have proved worthwhile. Of course attendance records have been great, the course is compulsory.

The letter also says:

> I guess if we dob in our workmates it saves management having to spy. Needless to say, many of us refused to write much —

when they were asked to. The letter goes on to say:

> … the end of the day … couldn't come quick enough … I'm sure any negative feedback forms didn't make it past the management bias eyes of the instructor.
>
> I am happy that you stood up in Parliament and brought this to the attention of others, most complaints fall on deaf ears … I hope this letter sheds more light on what has been a mammoth money-wasting effort by the Parliament.

That is a reference to the six love-ins that were held by the Parliament at the Novotel last week. I make the point that the staff of this Parliament are most unhappy with the Department of Parliamentary Services and the way this Parliament now operates.

Heimat Centre, Doncaster

Ms ARGONDIZZO (Templestowe) — It was my pleasure on Friday last to attend the opening of the refurbished and extended Heimat Centre in Rieschiecks Reserve, Doncaster. The $1.6 million redevelopment project at Rieschiecks Reserve in George Street was officially opened by my colleague and Victoria's Minister for Sport and Recreation, the Honourable Justin Madden. The Heimat Centre project was a two-stage development involving the restoration of the historic homestead built in 1889 by John Traugott Finger, a member of the Doncaster community of 19th century German pioneers. The $247 000 Heimat House restoration was completed with the help of a heritage works grant provided by the Victorian government's Commonwealth Games funding program.

The recently completed Heimat Centre, which sits adjacent to the newly restored Heimat House, provides a magnificent new community facility for the people of Manningham and particularly for the residents of Doncaster. The new centre will house many local community groups, including the TRY Activity Centre. The Manningham mayor, Cr Patricia Young, acknowledged the selfless work of the TRY Activity Centre during the past 20 years. TRY has offered education, recreation and physical fitness activities to the people of Doncaster for over 20 years.

Manningham City Council is to be congratulated for its initiative in restoring this important local heritage asset with the support and cooperation of the Bracks government and at the same time developing a modern leisure and sporting facility for the enjoyment of local residents. I am pleased to be associated with this wonderful community facility and the people who made it possible. I am sure it will provide many years of pleasure and enjoyment to many residents of Manningham.

Economy: performance

Hon. RICHARD DALLA-RIVA (East Yarra) — I thought that in light of the debate about the Victorian renewable energy target scheme yesterday I would just put on the record again the real risk that Victoria is facing under this government. I thought that was important. I went back to the Australian economic

indicators of September 1992, just before the Kirner government collapsed and looked at some of the figures relating to that time. It was quite stark. You can see the very similar way the current government is running the economy and that we have exactly the same types of indicators that were apparent in 1992 are apparent now.

If you look at the indicators you can see the way the gross state product had collapsed against the national average, which is exactly what is happening now. If you look at some of the figures on the decline in exports during the period of the Cain and Kirner governments, you see growth was, for example, 0.1 per cent and 3.1 per cent — magnificent growth! Then, when you get to the Kennett years, you see growth of 15.7 per cent, 11.6 per cent and 18.5 per cent. Then when you look at the figures for the Bracks government you see we are growing at minus 15 per cent, minus 4.7 per cent and a marginal 2.8 per cent. They show exactly what everyone knows: that the economy is being screwed down by this government. You need to look at the indicators that preceded the collapse of the Kirner government and the way that it mismanaged the economy. This government is doing exactly the same.

Geelong Cement Bowls Club: 80th anniversary

Ms CARBINES (Geelong) — On Saturday, 2 September, I was delighted to attend, along with my colleague Ian Trezise, the member for Geelong, the 80th anniversary celebrations of the Geelong Cement Bowls Club. The club has a long and proud history, having been formed in 1926 as part of the recreational facilities provided for workers at the Geelong Cement company. However, in 2001 Adelaide Brighton decided to cease operations of the Geelong Cement company and the future of the Geelong Cement Bowls Club was in doubt, as Adelaide Brighton wanted to sell the land for subdivision.

Geelong Cement bowlers quickly formed a determined campaign, the KCB — Keep Cement Bowling — campaign, and worked extremely hard to form a strategy to purchase the club. Ian Trezise and I worked closely with the KCB team, leading negotiations with Adelaide Brighton to secure a way forward to preserve the Geelong Cement Bowls Club. It is a testament to all members that they have now finalised the purchase of the club and that they obtained the title to that land in January. I would especially like to honour the late Peter Lowe for his efforts in leading the KCB team. Congratulations to all at Geelong Cement Bowls Club on your 80th anniversary. May you know much success on the greens this season!

Racial and religious tolerance: legislation

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — I have come to regard my support in 2001 for the Racial and Religious Tolerance Act as a mistake. Rather than promoting tolerance, the act has been used by various individuals and groups as a weapon to push agendas against other individuals and groups. Disturbingly, we now see members of the government trying to use the act to enforce censorship against the media. Last night during the adjournment debate Mr Nguyen sought the assistance of the Minister assisting the Premier on Multicultural Affairs in having the Racial and Religious Tolerance Act used against a newspaper, the *Viet Times*, which Mr Nguyen claims is defaming members of the Vietnamese community. What Mr Nguyen did not say is that that newspaper has been less than glowing in its commentary about Mr Nguyen, and he could well feel a victim of defamation by that newspaper.

There are well-established mechanisms to deal with media complaints and alleged defamation. The Racial and Religious Tolerance Act should not be used to bully and intimidate media outlets into censorship. Any attempt to use the act in that way further demonstrates why that act of Parliament was a mistake.

Racial and religious tolerance: community support

Mr SCHEFFER (Monash) — I am encouraged by the content of a media release yesterday by Mr Orhan Cicek, the executive adviser to the Australian Intercultural Society, and the content of an article in this week's *Australian Jewish News*, both of which criticised recent remarks made by the Prime Minister. For some time the Muslim Australian Intercultural Society and the Jewish B'nai B'rith Anti-Defamation Commission have been working together on a number of inter-community strengthening and harmony programs to bring Jews and Muslims living in Victoria to greater mutual understanding. Mr Cicek said that recent remarks by the Prime Minister in which he singled out Muslims are unhelpful and failed to respect the efforts of many migrant groups to belong in this country.

The *Australian Jewish News* reported that senior Jewish figures had accused the Howard government of alienating Australia's Islamic community by urging Muslims to integrate more quickly into Australian society. Rabbi Jeremy Lawrence of the Great Synagogue in Sydney said that it is not helpful to make public remarks suggesting deficiencies in the integration of a community and that it is important that

faith groups and ethnic minorities feel they are able to remain true to their cultures and traditions within the society in which they have chosen to live. Dr Paul Gardner, the chairman of the B'nai B'rith Anti-Defamation Commission, criticised the Howard government for singling out the Islamic community. Jeremy Jones, the director of community and international affairs of the Australia/Israel & Jewish Affairs Council, said Islamic integration is important for a harmonious society.

I congratulate Orhan Cicek of the Australian Intercultural Society, Rabbi Jeremy Lawrence, Dr Paul Gardner and Jewish community organisations for standing up for each other's communities in this way.

Public land: Push for the Bush campaign

Hon. E. G. STONEY (Central Highlands) — Mountain cattlemen had their alpine leases cancelled by the state government last year, and they are now retaliating by commencing a campaign called Push for the Bush. Users of public land have become increasingly concerned that the demise of cattlemen in the park would encourage the government to further restrict access to public land, and four things have happened to confirm these fears.

Firstly, the Greens party has announced policies seriously restricting people's enjoyment of public land, and some of its policies involve restrictions on private land. Secondly, the Greens are also proposing to put almost all state forests into national parks. Thirdly, the government is looking at future sustainable management of state forests, and has mentioned the impact of cattle grazing and other uses. And fourthly, the government has closed public access to the Bunyip State Park.

It is well known that the state government will do anything to obtain Greens preferences. The Greens are likely to hold the balance of power under the new upper house structure. The Mountain Cattlemen's Association of Victoria is showing rural leadership by employing well-known activist Bob Richardson to bring like-minded groups together. The campaign will involve emailing information to a great number of people, groups and clubs, distributing to thousands of people the policies and comments of all political parties as they relate to public land issues in the lead-up to the election.

All parties need to be aware that the Push for the Bush campaign will be very influential in Melbourne at this election because of the huge contact list it will use between now and 25 November. So Mr Mitchell, a member for Central Highlands Province, should watch out!

CREATE Foundation

Hon. J. H. EREN (Geelong) — I would like to mention a very worthwhile organisation in my electorate which does a great job for the disadvantaged. The CREATE Foundation is a not-for-profit organisation based in the northern suburbs of Geelong and Werribee. It offers a broad range of programs funded predominantly by the state government with additional federal and community funding. CREATE offers services to early school leavers, people with disabilities, schools programs, traineeships and school-based apprenticeships, case management programs, employment programs and more recently a community-based enterprise that employs local residents. The organisation is a major partner in the neighbourhood renewal initiative.

CREATE is registered with the Office of Housing as a tenderer of works including housing upgrades on a fee-for-service basis. From this activity and CREATE's Australian school-based apprenticeships model the organisation has established major links with industry, including a peak body, with the view to expanding services to young people and adults across the Geelong region.

In addition CREATE's school-based model has exceeded project targets and outcomes and will develop further in 2007, replicating somewhat the past technical school model. Vocational streams include building and construction, fitness, automotive, administration, horticulture and outdoor works.

Traditional or capped traineeships remain an issue for CREATE — —

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

Water: Bendigo supply

Hon. D. K. DRUM (North Western) — The continual water crisis in central Victoria, and in particular in Bendigo, unfortunately seems to give the member for Bendigo West in the other place, Bob Cameron, who is the Minister for Agriculture, a chance to continually play politics with the water situation. The government will build the Colbinabbin pipeline to link the Campaspe and Goulburn systems and pipe water from the Goulburn system to Lake Eppalock. The source of water that will eventually flow through the pipeline is causing considerable angst to everybody in the region.

The Nationals have clearly stated that the government should invest in savings within the irrigation system, and I reiterate this. Unbelievably, the Minister for Agriculture does not want to invest in savings in water in his own portfolio. He says the savings are not in the system. He says the government wants to buy water from desperate farmers, and does not need to invest in savings to create new water. He understands that investment in savings will be slightly more expensive than purchasing water from desperate farmers.

I urge Mr Cameron to stop playing political games with this issue, but to go out there and do what is best to represent his people, making sure he represents the farming community whose portfolio he is supposedly in control of. He should find savings and commit his government to finding savings in the future so that it can pipe water to Bendigo when it is necessary.

Vietnamese Veterans Association of Australia

Hon. S. M. NGUYEN (Melbourne West) — The Victorian branch of the Vietnamese Veterans Association of Australia organised a fundraising dinner in Melbourne on 24 August. The dinner was for the disabled former soldiers who lost their arms or legs or sustained other injuries during the Vietnam War. Nearly 400 people attended. It has been a great effort for the organisation to do such meaningful work.

These forgotten people, who are now living a very poor life, have had no support in the past 30 years — with no medical care, and no residential support. They are homeless people; they are beggars living on the streets. The government of Vietnam has done nothing to support them because of political differences. The Vietnam government should forget the past and look after its countrymen, despite political views of the past. During the war the soldiers were part of the Australian, American and other allied armies. I call on the Australian government to look at future plans to help these people, because plans are needed. They have not been looked after for a long, long time and are desperate for help.

I would also like to remind people that this year we mark 40 years since the battle of Long Tan.

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

Planning: Croydon development

Hon. B. N. ATKINSON (Koonung) — I wish to alert the house to the concerns people of the Croydon area have raised with the Liberal candidate for Kilsyth, David Hodgett, with regard to a proposal by the City of Maroondah to pass an amendment called C54, which would rezone land at the northern section of 49 Taylors Road, Croydon, from public parkland to residential 1.

The proposal is designed to allow a high-density community housing project of some 27 units to be built on this site, which I understand is about 2 hectares. Clearly this has been of considerable concern to residents in and around the park area. At a meeting last week of some 200 people, which was attended by David Hodgett as the Liberal candidate to ascertain the views of the people, there was certainly considerable concern raised about the project.

On behalf of Mr Hodgett and those people I would suggest that if the minister were to receive the amendment in the near future he should not approve it, and particularly not make any effort to approve such an amendment prior to a state election. I would hope that the City of Maroondah abandons the amendment in accordance with the wishes of the people of Croydon, as expressed through David Hodgett.

Aboriginals: law students

Ms MIKAKOS (Jika Jika) — On 24 July I had the honour of speaking at the relocation of the Indigenous Law Students and Lawyers Association of Victoria to the Law Institute of Victoria. The association is an important initiative under the Aboriginal justice agreement phase 2, the aim of which is to 'increase the number of Kooris working in the justice system'. It aims to enable indigenous law students to attain the same graduation and workplace participation rates as those attained by other students.

I was very concerned to read in yesterday's *Age* that the federal department of education has reported a 6 per cent decline in Koori graduates Australia wide. That is why it is important that funding totalling $217 000 over the next four years was included in this year's state budget as part of the Bracks government's commitment for better social justice outcomes for Koori communities in Victoria.

The association's aims are to provide summer placements and cadetships for law students, to find opportunities for young indigenous lawyers and law students to be mentored by judicial officers and other professionals, to increase the numbers of indigenous lawyers and to raise awareness in indigenous communities about legal careers for Kooris. It also aims to deliver information about legal skills training to pre-law students and to help tertiary students complete their studies. I would like to congratulate those involved in the Indigenous Law Students and Lawyers

Association of Victoria, and I wish the association all the best in the future.

Ballarat: freight centre

Ms HADDEN (Ballarat) — I am calling on the Bracks government to declare its hand on Ballarat's new freight centre, which was promised in 2002. In 2005 the Ballarat City Council unveiled its plans for a new $7 million freight centre after the Bracks government announced an additional $3 million boost in the 2005 state budget to help fund the Ballarat freight yard's relocation to the Walsh Industrial Estate in Wendouree, which was to become a key freight destination in provincial Victoria. The new plans to relocate the freight yards to Wendouree's Walsh estate were to allow a new residential and commercial development around the Ballarat railway station within 12 months of the April 2005 state budget. This now appears to be yet another broken promise by the Bracks government, and I call on Premier Steve Bracks to be open and accountable and tell the Ballarat business community why the 2002 plan has not eventuated as promised.

Ballarat ratepayers deserve an explanation as they have already funded in excess of $40 000 for feasibility studies into the freight centre's relocation, yet no tangible result can be seen. I am also very concerned that the current Ballarat freight yard is to be used as a dedicated facility — as an intermodal logistical solution — for the storage of industrial toxic waste that is to be transported from its source of production in Melbourne by rail to Ballarat and then by rail to the toxic waste dump to be constructed by the Bracks government at Hattah-Nowingi, just south of Mildura. All industrial toxic waste transported by rail to Mildura must pass through the historic Ballarat railway station and all the small rural communities along the rail line. Shame on the Bracks government!

Neighbourhood houses: funding

Hon. J. A. VOGELS (Western) — Today at 1.15 p.m. there will be a rally in the Treasury Gardens organised by the Association of Neighbourhood Houses and Learning Centres. The Liberal Party recognises that neighbourhood houses and learning centres are important neighbourhood links to community resources as they are frequented by over 115 000 people across 380 centres throughout Victoria.

It is the Liberal Party's objective to provide equity amongst neighbourhood houses and learning centres by providing core funding to the 30 centres not presently funded by Labor. To this end a Liberal government will inject an extra $14 million over four years into funding for Victoria's neighbourhood houses and learning centres. This is a 50 per cent increase for the 380 centres over and above Labor's May budget announcement.

The funding will ensure that the 380 centres continue to provide key access to a broad range of community and government services, programs and activities for people and guarantee provision of an additional 2740 hours of activities per week over and above Labor's commitment. It will enable neighbourhood houses and learning centres to operate five days a week instead of the present three days. It will increase the capacity of the 16 neighbourhood house and learning centre regional networks to coordinate management and operational support for their member centres.

A Liberal government will work in a partnership approach with the Association of Neighbourhood Houses and Learning Centres and local government to ensure additional programs and services are available and tailored to meet the needs of local communities.

Planning: Mornington Peninsula

Hon. J. G. HILTON (Western Port) — I refer to the Honourable David Davis's members statement yesterday in which he tried to instil fear into the Mornington Peninsula community. Mr Davis used the phrase 'high-rise, high-density' three times, presumably on the basis that the more often you use a phrase the more likely people are to believe you. The facts are of course that there will be no high-density, high-rise development in Mornington. The Minister for Planning has approved mandatory height limits of four storeys on Main Street with setbacks, and five storeys on the blocks away from Main Street.

Indeed if the residents of Mornington want to avoid high-density, high-rise and urban sprawl, they had better vote for Mr William Puls, the ALP candidate. I remind the house that the Liberals are on record as wishing to get rid of Melbourne 2030. That would mean getting rid of the urban growth boundary, which sets the parameters of urban development that can take place, and the green wedge. In the highly unlikely event the Liberals are returned, what will also return will be the bad old days of rampant development at any time, anywhere and of any size. That is not what the community of Mornington wishes to have in its centres of activity.

STATEMENTS ON REPORTS AND PAPERS

Victorian privacy commissioner: report on Mr C's case

Hon. RICHARD DALLA-RIVA (East Yarra) — I rise to talk about the Victorian privacy commissioner's report of July 2006 on the investigation into Mr C's case. I have a direct and personal interest in the ongoing issue with Mr C, given that he and I had some communications — in fact many communications — when I was the shadow Minister for Corrections. During that period a number of issues were raised by Mr C in terms of what occurred whilst he was working in the Victorian prison system and related matters.

It is interesting that this report follows on from what occurred a number of years ago when a young candidate by the name of Mr Matthew Guy was running for election to the seat of Yan Yean. The then Minister for Police and Emergency Services and Minister for Corrections decided at some point that he would reveal personal details about Mr Guy, and the rest is history. That led to a further questioning of the entire Law Enforcement Assistance Program (LEAP) process that the Victoria Police and other agencies use as part of their law enforcement information collection processes.

Mr C's case has been reported in other areas and is being investigated by the Ombudsman. I want to put on the record, although I have mentioned it before, what happened preceding the publication of this report and the release of 20 000 pages of LEAP data to Mr C. I held a discussion with Mr C in the presence of the Secretary of the Department of Justice and the commissioner for corrections in the department secretary's office. I will not disclose the details of that discussion. Needless to say, you would have thought that when the opposition spokesperson was present at such a meeting, the minister would have been intent on knowing that Mr C had not been dealt with poorly. For the record, I think that Mr C has been dealt with very well by the corrections commissioner, Mr Kelvin Anderson, and the Department of Justice has been bending over backwards to assist. I was therefore amazed when prior to the publication of this report I received a call from Mr C, who said, 'You will not believe what has happened now'. What had happened was that Mr C had received via email 20 000 pages of other people's information, which was a privacy issue.

Mr C's matter is symbolic of the way the government takes a hands-off approach to these issues. We know that investigations into Mr C's case have been quite extensive, including by other departments, and I have raised the case in a number of forums, including in Parliament. Given those circumstances, you would have thought the then minister would have ensured that any dealings with Mr C would not have been approached in such a lacklustre way.

I must say that the report itself is fairly light on detail, and that is disappointing. Appendices 1 to 6, most of which are a rehash of procedures and the like, do not go into detail, which is disappointing. They could have added more weight to what was proposed. The privacy commissioner has raised certain matters, with which I agree, but on the whole the report is light on, given the extent of the issues that have been going on for some time since the infamous Matthew Guy case which in the longer term lead to the decline of the then Minister for Police and Emergency Services in the other place. The realities are that this report — —

The ACTING PRESIDENT (Hon. H. E. Buckingham) — Order! The member's time has expired.

Environment and Natural Resources Committee: energy services industry

Hon. S. M. NGUYEN (Melbourne West) — I would like to report on the Victorian government response to the parliamentary Environment and Natural Resources Committee inquiry into the energy services industry. The government cares about environmental impacts and about how to help Victorians save energy, which is important to the future of Victoria and Australia. Today people have to understand how to save and make life better for their children's and grandchildren's future. We must teach people how to save energy by providing support, technological information and education.

The government is working with business, the local community and councils to educate people on how to save energy, such as by turning off lights and using more natural light, turning off the heater when it is unnecessary and turning off computers and other appliances when leaving your office, all of which will create a better environment for everyone. These things can be done at home, in shopping centres and elsewhere. Today we cannot afford to ignore what currently happens. Everyone must get involved. They are small things, but they count. We must save energy and water which in turn will save money.

There are a number of recommendations in the report on saving money. The government has funded education programs and asked councils to become involved with community groups and organisations.

The report also talks about a rebate scheme for energy efficient products, as well as delivering energy efficiencies. It also talks about the 5-star energy rating scheme on appliances so that consumers know how much those appliances will cost to run.

The ACTING PRESIDENT (Hon. H. E. Buckingham) — Order! The member's time has expired.

Auditor-General: results of special audits and other investigations

Hon. D. K. DRUM (North Western) — It is always good to use Auditor-General's reports to back up our criticism in opposition of what the government is doing. Sometimes the public gets tired, as do government members, of the opposition pinpointing some deficiencies and flaws. It is always good to have the Auditor-General report details which backup some areas of interest to all Victorians and which the opposition has been working on.

The Auditor-General's report into the fast rail project is one such report which explains some of the deficiencies in the project. I know that Victorians are now starting to wake up to the fact that the Bracks government is more committed to spin than it is to substance. It is more committed to how it is perceived by Victorians than actually doing anything. It wants to give the perception of something it is not, and there is no better example than the fast rail project.

What should have been the biggest rail upgrade in the state's history was well overdue. Initially it was well received by the opposition parties who thought it was an opportunity to upgrade the system, which the previous government had failed to do, but it did not happen. There could have been Victoria-wide support, but the government has to call it something it is not. It told the people of Victoria it was doing something, but did not do it. It had to tell a giant lie to the people of Victoria that it would deliver fast rail. The government knew it could never deliver fast rail in the way people perceive fast rail — that is, a 300-kilometres-an-hour rail system that would compete against air and not against road transport. All governments in the Western World call it for what it is, but not this government.

The Auditor-General's report highlights the cost blow-outs in the project. The Auditor-General made an initial report of the cost blow-outs and indicates what the position is currently. He also highlights the original completion date, which was set down for 2004. We are still ironing out the bugs. There is real concern, although it has been denied by the Department of Infrastructure, from employees of the rail system that once the upcoming election is over the trains will come off the tracks so some of the glitches can be fixed. We are continuing to suffer delays in the system, and only the future will tell us what sort of job the government has done.

The Auditor-General also talks about the lack of planning for the fast rail project. The experts involved in rail say that no plans have been put in place for a properly integrated and coordinated country interchange system with rail, bus and the metropolitan system. That is how you can achieve your best gains. But that has not been achieved; it was not even looked at because this mob was so concerned about trying to tell the people of Victoria they were going to be given fast rail.

The project has been dogged by continual delays. They ripped up the second track between Bendigo and Kyneton and that has caused and continues to cause enormous delays. People ring my office on an average of once a fortnight to relay horrific stories about a simple trip on a train — wrong platforms, stoppages in the middle of nowhere, waiting in a station that normally should take 30 seconds to disembark and unload passengers. The whole thing has been a sham. The government is talking about trains that travel at 160 kilometres an hour. We know they travel at that speed for about 1 kilometre and then they have to stop or slow down again. The average saving is about 2 minutes. It has been a sham and the Auditor-General has exposed it.

Auditor-General: results of special audits and other investigations

Hon. DAVID KOCH (Western) — I rise to also make a statement on the Auditor-General's report of August 2006, numbered 2006:8. I support the comments of my colleague Mr Drum in relation to that reporting process. The report sets out the results of five special audits and I will be referring only to the management of the two major rail transport undertakings by the Department of Infrastructure (DoI), which are the fast rail project and rail gauge standardisation.

Importantly, we can say that this report would have to be one of the most damning reports ever tabled in this Parliament. The inept capacity of the government to get anything planned, costed or delivered defies belief. The Minister for Transport in the other place should resign from his brief; if not, the Premier should remove him from office. This shocking performance and hopeless outcome would not be tolerated anywhere else,

especially in the private sector. The lack of delivery of fast rail and rail gauge standardisation is a disgrace. The Bracks government has had every reason, the funds and the capacity to complete this program, particularly for the movement of heavy freight.

I draw the house's attention to the report on these matters, which is found between pages 3 and 9. Under the headings 'Overall conclusions' and 'Delivering regional fast rail services' the Auditor-General said:

> … in 2000 —

that is, nearly seven years ago —

> the government approved funding to upgrade rail lines to provide fast rail passenger services between Melbourne and Ballarat, Bendigo, Geelong and Traralgon …
>
> … These activities included upgrading the rail infrastructure; providing new, faster trains; installing a fibre optic cable network as the backbone of an upgraded signalling system; designing a new timetable; and improving connecting regional bus services.

The Auditor-General:

> … found that the delivery of more frequent fast rail services in the Geelong, Ballarat, Bendigo corridors by the agreed dates was not achieved.

Under the heading 'Fast rail initiative costs' the Auditor-General's report says:

> In December 2004, DoI estimated the cost of delivering the infrastructure upgrade to be $750.5 million, some $194.5 million greater than the original estimate.

Under the heading 'Timelines' the report indicates:

> Up until June 2006, V/Line Passenger was aiming to introduce a fast rail timetable in July 2006 … DoI has not finalised the timetable for the four corridors, and the introduction of fast rail services will be delayed beyond the end of July 2006.

The report goes on to say:

> The rail infrastructure upgrade completion dates are between 9 and 19 months behind schedule. The time lines set … were clearly unrealistic and this should have been understood at the time.

Under 'Feasibility studies report' the Auditor-General indicates that:

> The cost-benefit analysis included in the project feasibility studies report overestimated the benefits and underestimated the cost of the upgrade.

In relation to the infrastructure upgrade contracts the report finds that:

> The primary cause of the time delays and additional costs was the lack of proper planning …
>
> … A fixed-fee contract, incorporating a design component, was inherently high risk in the circumstances where the design at the time was only conceptual …
>
> Most of the delays and cost increases can be directly linked to scope changes that mostly arose from legitimate stakeholder concerns about the ability of the design to the passenger needs and safety requirements.

In relation to rail gauge standardisation the Auditor-General:

> … examined how well DoI has planned and managed the rail gauge standardisation project …

The report goes on to indicate the overruns that have taken place. It clearly demonstrates that this government was never serious in relation to the rail standardisation project. This is a pity when we consider the amount of heavy freight we now find on our highways. The government has left Victoria with a mess in both the rail gauge standardisation and the fast rail projects.

Sustainability and Environment: report 2004–05

Mr VINEY (Chelsea) — I wish to make a statement on the Department of Sustainability and Environment report 2004–05. In doing so I refer particularly to the section of the report that deals with urban and regional strategies and programs and in particular with the activity centre responsibilities of the department. I do so noting that on a number of occasions in this debate and other debates in the house the Honourable David Davis has made a number of comments in relation to Mornington. Mornington of course is a township on the Mornington Peninsula that has been designated as one of the activity centres which are part of the planning responsibility of the Department of Sustainability and Environment and which are mentioned in this report.

In Mr Davis' criticisms of this government and its members he made a number of comments in relation to the inclusion of the Mornington Peninsula shire in Melbourne 2030. Mr Davis has criticised the introduction of protections for Mornington. In particular he criticised some interim height controls that were announced by the minister in July this year. These controls establish mandatory height limits of four to five storeys and are among the first to be introduced in Victoria. This was done as part of the process of working towards a structure plan for Mornington.

In his criticisms of the government members in this place, Mr Davis suggested that members of the Labor Party were the only people in favour of the minister's decision on interim height controls for high-density, high-rise development, Melbourne 2030 style — which of course is not what it is — and the inclusion of the

Mornington Peninsula in Melbourne 2030. I can advise the house that on 12 September in the *Mornington Peninsula Leader* there is a headline to an article on page 11 that reads:

> Mayor backs 2030 plan.

The mayor of the Mornington Peninsula Shire is Brian Stahl. I know Brian reasonably well; I was a manager with the Shire of Hastings when he was a councillor there. He is a very nice fellow but he is not a member of the Labor Party. I do not know whether he is a member of the Liberal Party, but I think his sympathies would lean far more that way than to the Labor Party. He is reported in the article as saying:

> Comments by Liberal politicians or former Liberal politicians —

criticising Melbourne 2030 —

> are just that — comments by politicians, made when a state election is only a couple of months away …
>
> Council is disappointed that 2030 is being treated as a political football …

He is reported further on in the article as saying that Melbourne 2030 served to protect the peninsula from overdevelopment.

The shire supports the Minister for Planning in the other place; the community supports the process of now developing a structure plan for Mornington; and the means by which the character and uniqueness of Mornington can be protected is through 2030, which protects the green wedges. The whole purpose of including the Mornington Peninsula in 2030 was to include it in the growth boundaries for Melbourne and to protect the green wedges. The structure planning process is now under way. It is being conducted by the shire to protect the particular characteristics of the Mornington township.

The only people, as Mr Stahl, the Mornington Peninsula shire mayor, says, that are criticising the government and criticising this process are politicians like Mr Davis who are whipping up trouble.

Hon. D. McL. Davis interjected.

Mr VINEY — They are scaremongering about height and excessive growth. Those people have been exposed by Mr Stahl and the Mornington Peninsula Shire Council.

Consumer Affairs Victoria: report 2004–05

Hon. W. A. LOVELL (North Eastern) — I rise today to speak about the Consumer Affairs Victoria annual report 2004–05, in particular page 96 of the report which deals with legislative review and lists the number of unfinished reviews this government has under way at the moment. This report, which came out some 15 or 16 months ago, listed 10 reviews, only 5 of which have been dealt with; 3 of the reviews had been completed, 2 are in the Parliament now and 5 were still outstanding.

The reason I ran out of time when making my contribution during the last sitting week was that I took some time to look at the Consumer Affairs Victoria web site. I found that it paints an even darker picture of the number of reviews that are outstanding under this government. The web site lists 20 reviews and consultations, and only the 3 that were included in the annual report some 16 months ago have been completed; 2 are before the house as legislation at the moment — the Owners Corporations Bill and the Conveyancers Bill; and 2 were reviews of regulations that had sunset clauses, so they had to be completed. That is 7 that are almost finalised — 3 as a result of legislation, 2 as a result of regulations and 2 are in the house at the moment. A further 3 reviews are being conducted by other bodies, but there are 10 reviews that are outstanding under the current minister.

I will not talk about the code of conduct for packaged liquor licences, nor about the reviews into the Associations Incorporations Act, business licensing, the Fair Trading Act, consumer credit, domestic building contracts, the Fundraising Appeals Act, harmonisation of telemarketing laws or motorcar traders, because I have spoken about those before. I would like to speak about the two other reviews I did not have time to deal with last time.

One is the rural tenancies discussion paper. This discussion paper was released in April 2005, and the closing date was May 2005. We have still seen nothing resulting from the discussion paper; there has been no report by the government or any action on this consultation. The web site still has a link to Graham Watson who wrote that discussion paper, but Graham Watson has not been with Consumer Affairs Victoria for well over 12 months, so the web site is very much out of date.

The other outstanding review listed on the web site is the utility metering regulations consultation. This review was only begun in June 2006. Submissions

closed on 18 August 2006, but there has been no further action since then.

One of the funny things I saw listed on the web site was the regulation review of the Patriotic Funds Act, which was conducted in August 2005. The strange thing is that the web site states that the legislation is currently before the Parliament, but the Veterans Act was passed in October 2005. The web site is very much out of date, but it shows how out of date the Minister for Consumer Affairs and the government are because they are not completing their reviews. It shows that we have a lazy minister in this portfolio. It is no wonder that the *Age* listed the minister on the front page as one of the ministers who must go, because under this minister we are not seeing any action in providing consumer protection.

The government says it is consulting with the community. What it does is go out there and waste the community's time and energy engaging it in consultation, and then it completely ignores what the community has to say. This is an arrogant government that must go in November, and the Minister for Consumer Affairs is a lazy minister who must also go in November. Victorians have the choice to elect a Liberal government which will value their opinions.

Library Board of Victoria: report 2004–05

Hon. ANDREA COOTE (Monash) — I would like to speak today on the 2004–05 annual report of the Library Board of Victoria. When you have a look at this report you can see the key performance indicators outlined on page 9, and in particular I would like to speak today about the events and exhibitions visits referred to there.

Since this report was done, a new chairman has been appointed to the Library Board of Victoria — former Premier John Cain. I would like to say how generous Mr Cain was in inviting me to this year's Victorian Premier's Literary Awards. He rang personally, and I have to say it was a very gracious and very nice invitation which I was very pleased to accept. I think Mr Cain will go on to be an excellent chairman of the library board. He has the library's passions at heart. I know he has been a long-time supporter of the library, as indeed has Mrs Cain, and I believe they will be excellent advocates for the State Library of Victoria, which hopefully will go from strength to strength.

We now understand how well the Kennett government did with the refurbishment work it had done on the state library, and I believe the work being done now builds upon that. I was pleased to see money given to the state library recently, because I think everyone in this chamber would agree that the state library belongs to all Victorians and that it is important that we get it right. I believe that Mr Cain will do an excellent job in achieving that.

I would like to talk about the Premier's literary awards, which were absolutely super. They demonstrated the depth of talent we have here in this country and the depth of experience of our writers. I would like to put on the record some of the prizes that were given and indeed some of the works that were awarded a prize. There were 12 awards this year, and that shows the depth of the Premier's literary awards which are run by the state library on an annual basis. The awards are one of the highlights of the events on the library's calendar. The awards encourage young writers — and in fact not-so-young writers — to go on and do some more very innovative work, which bodes very well for the future.

This year's prizes were the Vance Palmer Prize for Fiction, the Nettie Palmer Prize for Non-fiction, the Prize for Young Adult Fiction, the Prize for an Unpublished Manuscript by an Emerging Victorian Writer, the C. J. Dennis Prize for Poetry, the Louis Esson Prize for Drama, the Alfred Deakin Prize for an Essay Advancing Public Debate, the Village Roadshow Prize for Screen Writing, the Grollo Ruzzene Foundation Prize for Writing about Italians in Australia, the John Curtin Prize for Journalism, the Prize for Indigenous Writing and the Prize for a First Book of History, which I thought was extremely interesting. The presenters who introduced the winner of the first award of the evening, the Prize for Young Adult Fiction, was a group of school children, and I have to say that those children were very poised and impressive, and they really did an excellent job.

I believe the book that won that prize was the highlight of the night. The book is called *Theodora's Gift* and is published by Viking/Penguin Books Australia. The author is Ursula Dubosarsky, and she has written an excellent book. It is a novel of dislocation of middle-class life where chaos is synonymous with living and where the Holocaust is glimpsed in an Australian landscape, and it achieves both a lightness and depth which is enriching for the reader. The author's voice gives the story a fairytale quality suggesting the mystery of ordinary things and creates in Theodora a naive poise and isolation which makes her both moving and gently comic. This novel will reveal most to readers who are much older than its 14-year-old protagonist, and its vision will reveal to them ways to nest in a storm.

I have read this book, and it is an excellent book. I could not put it down. It was terrific, and I can see how it has captured the imagination of young adults and older adults such as myself as well. I recommend the book to everyone in this chamber. It is an excellent read and is very amusing, but also poignant and touching at the same time. The author in her very gracious speech of acceptance recognised a number of issues which I think were important to all of us gathered at that forum, and her eloquent and poised speech reflected the calibre of author she is. It showed that not only can authors write, but they can speak as well. It was an excellent night.

The other prize that was very interesting and which was given for the first time was the John Curtin Prize for Journalism, for which Eric Beecher was the judge.

The ACTING PRESIDENT (Hon. H. E. Buckingham) — Order! The honourable member's time has expired.

Sustainability and Environment: report 2004–05

Hon. D. McL. DAVIS (East Yarra) — I am pleased to make a contribution to statements on reports today and in doing so to talk about the 2005 annual report of the Department of Sustainability and Environment.

Mr Viney — You came back in!

Hon. D. McL. DAVIS — There was a slot that appeared.

Mr Viney — Dear me, what a sensitive and precious jewel you are.

Hon. D. McL. DAVIS — No, I am never one to miss making a political point when the Labor Party has got it wrong, and on this occasion the Labor Party has got it wrong in its application of Melbourne 2030 to the Mornington Peninsula. Mr Viney and others who have lived for many years in that vicinity should know that many people move to the peninsula to get away from metropolitan Melbourne and to get away from the high-rise buildings and the hustle and bustle. They seek to move to a seaside location or a location that has a greater rural capacity and rural vistas. Instead of that, the Labor Party plan is that the Melbourne 2030 planning system which was outlined in 2002 will apply to the tip of Point Nepean! Three activity districts have been nominated by this government — Hastings, Rosebud and Mornington. Acting President, you would have visited the Mornington peninsula over the years, as have many other members of this chamber, and you would be surprised to see the development of high-rise in the Rosebud vicinity and in Hastings, and particularly in Mornington. Nobody down there wants it.

Mr Viney hopped up earlier to indicate that the mayor of Mornington had made a statement. The mayor is entitled to make a statement, and I am very pleased that Mr Viney enjoyed it. The Mornington Peninsula Shire Council was faced with a very difficult situation. There was no protection from Melbourne 2030 whatsoever — we could have seen a Mitcham-style 14-tower high-rise development on the peninsula! For that reason, the council has thought that it will live with five storeys, but no-one on the peninsula really wants developments with four-storey and five-storey blocks taking up huge parts of the town and changing the character of the Mornington shops. Nobody in the town wants that. They would have preferred to retain the more amenable nature of the town they now have.

The town of Mornington is now under a considerable threat by this government. The meeting I addressed down at Mornington saw more than 500 people gathered, and not one person spoke in favour of Melbourne 2030 — except the Labor candidate for Mornington, Mr Puls. He was the lone speaker at the public meeting in favour of Melbourne 2030. He said that Melbourne had to grow, he said the growth had to come down along the peninsula, and he said the peninsula was part of Melbourne. I have to say that the more people I speak to on the Mornington Peninsula the more clear it becomes to me that the peninsula needs to be treated as a distinct and separate zone. It needs its own planning scheme arrangements. It needs arrangements that take into account its character and the lifestyles, aims and interests of the people living there. I do not believe the one-size-fits-all Melbourne 2030 approach that this government has slapped across the whole of metropolitan Melbourne is satisfactory.

That structure plan has been forced on the council by the presence of Melbourne 2030. If the council had not introduced a structure plan it may well have faced even taller towers in that town. Across metropolitan Melbourne councils have understood that unless they have significant structure plans in place they are totally exposed to the ravages of Melbourne 2030; they are exposed to the risks of inappropriate high-rise, high-density development.

Each of the Labor Party members on the peninsula should hang their head in shame for not having stood up for their area. Like a group of toadies each of the Labor members has supported Melbourne 2030 without ever speaking against it or without ever being prepared to stand up for their area and without ever being prepared to fight for the values that people in their area

want. The Liberal Party members down there will do it. The member for Nepean in the other place, Martin Dixon, has done it.

Hon. R. H. Bowden — I have.

Hon. D. McL. DAVIS — Mr Bowden has been prepared to stand up and fight on traffic issues in particular. But the Labor members are toadies.

The ACTING PRESIDENT (Hon. H. E. Buckingham) — Order! The member's time has expired!

CITY OF MELBOURNE AND DOCKLANDS ACTS (GOVERNANCE) BILL

Second reading

Ordered that second-reading speech be incorporated on motion of Ms BROAD (Minister for Local Government).

Ms BROAD (Minister for Local Government) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

In April 2004, the government's decision to return the Docklands area to city of Melbourne and to democratically elected local government in time for residents and ratepayers to participate in the 2008 Victorian local government elections was announced. This announcement reflects the government's election commitment to 'restore and strengthen local democracy' in Victoria.

This commitment was in response to the decision of the previous government in 1998 to excise Docklands from the municipal district of the city of Melbourne. While the decision to transfer these responsibilities directly to the Docklands Authority (now VicUrban) was for the purpose of developing the site as a world-class addition to the city of Melbourne, it effectively excluded Docklands' residents and ratepayers from participating in democratically elected local government.

The government decision announced in April 2004 was in response to the recommendations of the Docklands and Adjacent Areas Interdepartmental Committee ('the IDC') in its 2003 report on *Governance of Melbourne's Docklands and Adjacent Areas*. In its report, the IDC recommended:

- the restoration of the Docklands precinct and its municipal management functions, with the exception of statutory planning, to the City of Melbourne;
- the establishment of a coordinating body to oversee the management of the Docklands waterways and waterfront (the Docklands' 'place management' function); and
- the retention of the IDC to oversee the implementation of the government's decision.

In addition, the government agreed with the IDC's view that the City of Melbourne, as the inheritor of Docklands, should bear the costs of the Docklands' place management function. The government's position was based on the IDC's determination at the time that this function could be funded from the projected future Docklands' municipal rates revenue stream, following the return of the precinct to city of Melbourne.

The IDC reconvened as the Implementation IDC ('IIDC') in June 2004, and established a governance framework to oversee the implementation of the government's decision. This bill reflects the work of the IIDC. The bill has been introduced to:

- provide for the return of the Docklands area to the municipal district of the city of Melbourne;
- divest VicUrban of the powers to exercise municipal functions in the Docklands area;
- provide for a transfer date prior to the November 2008 city elections (commencement by proclamation, default date being 1 January 2008);
- provide for the temporary reservation of Victoria Harbour and a number of other public access areas in Docklands, and the appointment of the City of Melbourne as committee of management (where appropriate) for those areas.
- provide for the addition of other areas of Docklands to the Crown land reserve upon completion of their development;
- the creation of a special committee of the Melbourne City Council ('the Docklands Coordination Committee') to coordinate place management for the temporary reservations in Docklands.

I now turn to the bill and its contents.

Part 1 of the bill (clauses 1 and 2) sets out the purposes of the bill, which are to amend both the City of Melbourne Act 2001 and the Docklands Act 1991 to give effect to this government's decision to return the Docklands area to the municipal district of the city of Melbourne, to provide for the establishment of the Docklands Coordination Committee and to provide for the reservation of certain areas in the Docklands area for public purposes.

Clause 2 provides for the act's commencement. The clause provides that, subject to subsection (2), the act commences on a day or days to be proclaimed and provides that if a provision of the act does not come into operation before 1 January 2008, it comes into operation on that day. The default commencement date will enable all transitional requirements to be met (such as the compilation of the voters' roll relating to the Docklands area) before the next Melbourne City Council municipal election in November 2008.

Part 2 of the bill (clauses 3 to 5) amends the City of Melbourne Act 2001 to provide that the municipal district of the City of Melbourne is to include the Docklands area and to establish the Docklands Coordination Committee.

While VicUrban will no longer be the municipal authority in the Docklands area upon the commencement of this bill, it will have a legitimate and continuing interest in the provision of place management services in certain parts of the Docklands area for so long as it has a development function in the Docklands area.

For this reason, clause 5 of the bill provides for the establishment of a 'Docklands Coordination Committee'. This committee will be a special committee of the Melbourne City Council under the Local Government Act 1989, although not all provisions in the Local Government Act 1989 relating to special committees will apply to it.

The bill provides that that the Docklands Coordination Committee is to have a membership of up to seven members. Three members will be nominated by the council and three members will be nominated by VicUrban. A seventh member may be appointed jointly by the minister administering the City of Melbourne Act 2001 (currently the Minister for Local Government) and the minister administering the Docklands Act 1991 (currently the Minister for Major Projects) for a term of up to four years.

The bill provides for the appointment of deputy members.

The bill provides for the removal of members as follows: the Melbourne City Council may remove its own nominees (or deputies) at any time. The council must remove any VicUrban nominees (or deputies) at the request of VicUrban. The two ministers may jointly remove their appointee (or deputy) at any time.

The bill provides for a quorum of five members. Where the committee does not include the ministerial appointee, decisions are required to be unanimous.

The bill provides that if there is a ministerial appointee, that person is to chair the committee meetings. Where there is no such appointee, chairmanship is to be alternated between the council nominees and VicUrban nominees, commencing with the council nominee.

Where there is a ministerial appointee on the committee, the ministerial appointee will have a casting as well as a deliberative vote and a question before the meeting is to be determined by a majority of votes.

The bill provides that the committee carry out functions in relation to the monitoring of place management services in the coordination area in Docklands.

'Place management services' are defined in the bill and include services that relate to site presentation and the marketing and promotion of the Docklands area and other prescribed services. The full extent of those services will be detailed in regulations to be made under the bill. However, the intent of this definition is to ensure that the committee has a role in monitoring those services which contribute to Docklands' world-class status.

The committee will also be required to approve any place management or finance and infrastructure plan prepared for the coordination area.

The coordination area will be made up of Victoria Harbour and the public access land in the Docklands area (currently VicUrban land) which will be surrendered to the Crown and temporarily reserved for public purposes. The bill also provides for the addition of other Crown land to the coordination area by order in council on the joint recommendation of the minister administering the City of Melbourne Act 2001 and the minister administering the Docklands Act 1991.

The bill recognises that the Melbourne City Council and VicUrban may enter into an agreement in relation to the provision and coordination of place management services in the coordination area. It is the intention of the government that there will be a deed of protocol negotiated between Melbourne City Council and VicUrban. This deed will deal with matters relating to place management services and the return of the Docklands area to the municipal area of the City of Melbourne.

The bill provides for the making of regulations prescribing matters that may be included in the deed. The bill provides that this agreement must not be inconsistent with the bill or the regulations made under the bill.

Part 3 of the bill amends the Docklands Act 1991 to reflect the fact that Melbourne City Council is the municipal authority in the Docklands area and performs all municipal functions in that area. The bill also ensures that VicUrban recognises the legitimate role of Melbourne City Council in the Docklands area when exercising its development powers under the Docklands Act 1991.

The bill includes transitional provisions to implement the return of the Docklands area to the municipal district of the City of Melbourne. These relate to such municipal issues as sewers and drains, local roads, authorised officers, rates, indemnities and voters' rolls. The bill also provides for the Governor in Council (on the joint recommendation of the minister administering the Docklands Act 1991 and the minister administering the City of Melbourne Act 2001) to make transitional orders to provide for any matter necessary or convenient to give effect to the return of the Docklands area to the municipal district of the city of Melbourne.

These orders will cover a range of matters. The bill provides that sections 220S(1) and 220S(2) (other than paragraphs (h) to (j) of the Local Government Act 1989) apply to these orders. The bill also requires Melbourne City Council and VicUrban to comply with these orders.

The bill recognises that VicUrban and Melbourne City Council may enter into an agreement in relation to any matter associated with the return of the Docklands area to the municipal district of the city of Melbourne.

Division 2 of part 3 of the bill provides a mechanism for the divesting of certain land (as indicated on the LEGL06/071 plan lodged in the central plan office of the Department of Sustainability and Environment) from VicUrban, the deeming of that land to be unalienated Crown land and the deeming of the land to be temporarily reserved under the Crown Land (Reserves) Act 1978 for public purposes, and (where provided for) the deeming of Melbourne City Council as committee of management of that land.

These provisions implement the government's commitment to the return of public areas in the Docklands area to the Crown and the people of Victoria. The land to be reserved includes Victoria Harbour, the widened part of the Yarra River immediately below Charles Grimes Bridge and public access areas adjacent to Victoria Harbour.

The bill also provides for the future surrender and divesting of land in the Docklands area from VicUrban. As development continues in the Docklands area, and as VicUrban will no longer be the municipal authority, it is considered appropriate for those public areas, including parks and promenades (including promenades along the Yarra River) to be surrendered to the Crown, temporarily reserved for public purposes and (where appropriate) the Melbourne City Council-appointed committee of management.

Section 21 of the Docklands Act 1991 gives the Governor in Council (on the joint recommendation of the minister responsible for the Docklands Act 1991 and the minister responsible for the Crown Land (Reserves) Act 1978) the power to revoke temporary or permanent reservations of Crown land. This power will be expressly extended to reservations created under this bill. This amendment will reflect VicUrban's important development role in the Docklands area while ensuring transparency in operation.

It is anticipated that this power will be used to lift reservations over Crown land, thus allowing for the development of the land (including the granting of leases of greater than 21 years). Following development, the land can be re-reserved for public purposes and the leases preserved.

A number of leases have been granted by VicUrban over the land to be reserved. Some of these leases are for periods longer than 21 years (which is the usual limit for leases of reserved Crown land). All existing leases will be preserved under the bill (including those for periods of longer than 21 years) with the Melbourne City Council (if committee of management for the relevant land) being substituted as lessor for the remainder of the existing terms.

Land is usually surrendered to the Crown 'freed and discharged from all limitations'. It is necessary therefore, for the bill to expressly preserve those rights (such as easements and interests in the nature of easements) existing over that land in favour of a person (other than VicUrban) immediately before the date of reservation. The bill also provides for the preservation of planning agreements entered into by VicUrban under the Planning and Environment Act 1987 and the Docklands Act 1991.

The bill provides for the keeping of a public register of such rights and provides for the minister administering the Crown Land (Reserves) Act 1978 to enter into agreements with beneficiaries of those rights to cancel those rights. The bill also provides that while all care has been (and will be) taken to preserve existing rights on title, no compensation will be payable by the Crown in respect of anything done or arising out of those provisions.

Part 4 of the bill makes consequential amendments to a number of acts to reflect the fact that the Docklands area is being returned to the municipal district of the City of Melbourne.

This government's 'Listens Then Acts' 2002 policy platform outlined our commitment to 'return the Docklands precinct to the management of democratically elected local government'.

The City of Melbourne has agreed to accept the return of the Docklands precinct.

The City of Melbourne and Docklands Acts (Governance) Bill 2006 brings to fruition the government's commitment.

I commend the bill to the house.

Debate adjourned for Hon. J. A. VOGELS (Western) on motion of Hon. Andrea Coote.

Debate adjourned until next day.

CONVEYANCERS BILL

Second reading

Ordered that second-reading speech be incorporated for Hon. M. R. THOMSON (Minister for Consumer Affairs) on motion of Ms Broad.

Ms BROAD (Minister for Local Government) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

Buying a home represents the most significant transaction that the average person or family will make in their lifetime. An enormous proportion of their earnings is invested and their confidence in that investment can directly affect their sense of personal security.

Interests in real property are justifiably given the highest protection by the law in Victoria. The types of interests recognised by the law are many and varied. For these reasons, the process of transferring title to a property can be complex and usually requires professional conveyancing skills.

Conveyancing includes examining the contract of sale, drafting vendor certificates and requisitions, arranging for payment of the deposit and stamp duty and calculating adjustments for council and water rates. While conveyancing work is performed by some legal practitioners, a significant conveyancing industry has developed in Victoria independent of the legal profession.

Victoria currently operates a limited regulatory regime for conveyancers under the Legal Profession Act. While legal practitioners can perform all work necessary to effect a property transaction, the Legal Profession Act provides that non-lawyer conveyancers cannot perform the legal work associated with property transactions.

The National Competition Council has determined that the current regime is contrary to national competition policy because it allows legal practitioners to maintain a monopoly on the legal work associated with property transactions. Further, the recent collapse of a major conveyancing firm highlighted serious deficiencies in consumer protections under the Legal Profession Act in relation to non-lawyer conveyancers, particularly in relation to the handling of client moneys. While research indicates that errors and fraud in the provision of conveyancing services are relatively infrequent in Victoria, when these problems do occur, the consequences are severe.

Problems which may have occurred in the conveyancing process are unlikely to become apparent until years after the transaction. By the time the consumer becomes aware of the

problem, there may be little opportunity for redress. The government commissioned a review into the regulation of conveyancing services in Victoria to determine the best way to address these issues.

The review recommended that a number of core proposals be implemented. The government response to the review indicated its agreement with the core proposals and its intention to allow conveyancers to undertake the legal work associated with property transactions under a new system of regulation and licensing established especially for them as an alternative to lawyers.

The government is cognisant of the need for balance in regulation. The National Competition Council and the review of the regulation of conveyancing services in Victoria identified the need to open up the provision of legal work associated with property transactions to persons other than lawyers. The government supports increasing competition in the conveyancing industry but also wishes to strengthen the accountability of those involved in the provision of conveyancing services.

The government has determined that the best way of achieving these objectives is through a licensing system that imposes similar obligations and a similar level of accountability on conveyancers as are currently imposed on legal practitioners. The government considers that this level of accountability is more than justified given that for many people their home represents their most important asset.

The bill gives effect to the principles adopted in the government response and ensures that consumers will be able to enter into one of the most significant transactions of their lives with confidence. Consumers will be able to buy a home and be confident that every measure is in place to ensure that the transaction will proceed smoothly, that they will get what they pay for and that their investment will provide security for themselves, and their families, into the future.

The bill will establish a framework allowing consumers to be confident that licensed conveyancers are required to be knowledgeable and skilled. The bill seeks to protect consumers from errors and fraud by conveyancers. The bill encourages a competitive conveyancing industry that delivers high-quality services at low cost to consumers. The bill is structured to facilitate mutual recognition of conveyancers in other jurisdictions if possible in the future. I will briefly outline how the bill achieves each of these objectives.

The bill allows conveyancers to undertake the legal work associated with property transactions. However, the bill also lists a number of types of legal work that conveyancers are not permitted to undertake. This includes work such as establishing a corporation, applying for a grant of probate or letters of administration, and work relating to sales of businesses. However, the bill provides that the government will review the exclusion of work relating to sales of businesses by 1 July 2009.

Once the bill is implemented, consumers will be able to be confident that conveyancers are knowledgeable and skilled because no-one will be permitted to carry on a conveyancing business in Victoria unless they have satisfied strict eligibility requirements for a conveyancer's licence. The licensing regime set out in the bill is consistent with a number of other licensing regimes already in place in Victoria and will be administered by the Business Licensing Authority.

Eligibility for a conveyancer's licence will depend on an applicant obtaining prescribed qualifications and 12 months work experience. There will be transitional arrangements for conveyancers who have already been working in the industry for at least 12 months but do not have the prescribed educational qualifications. These conveyancers may apply for a provisional licence and their practice would be regulated under the new act. However, they would be limited to doing the range of work allowed by the old Legal Profession Act regime until they complete the qualification requirements. This must be done within five years, or they will lose their right to practice. Through these measures, consumers will be confident that conveyancers have the education and practical experience to complete property transactions properly.

The bill requires conveyancers to obtain professional indemnity insurance, to help protect consumers from the financial consequences of errors. The bill provides for a ministerial order to prescribe a minimum level of cover for professional indemnity insurance.

To help protect consumers from fraudulent conduct by conveyancers involving money held on trust for consumers, the bill imposes strict obligations on conveyancers relating to the maintenance and auditing of trust accounts. The bill also allows for compensation to be claimed from the Victorian Property Fund in the event of a defalcation by a licensed conveyancer. Conveyancers' licence fees and interest from conveyancers' trust accounts are to be paid into the fund to support this purpose.

Where there is potential for serious detriment to consumers, for example, where a conveyancer's licence is suspended or cancelled, the bill gives the director of Consumer Affairs Victoria ('director') the power to appoint a statutory manager to manage the conveyancer's business and gives the Supreme Court the power to appoint a receiver to take control of trust money and receivable property.

The bill also imposes on conveyancers a number of professional obligations similar to those in place for legal practitioners. These include obligations to disclose costs and conflicts of interest to clients. The bill also provides for professional conduct rules to be prescribed through regulations.

The framework of the bill is expected to increase the competitiveness of the conveyancing industry by abolishing the distinction between legal and non-legal work which previously allowed legal practitioners to maintain a monopoly on the legal work associated with property transactions. The bill does not prevent estate agents from holding conveyancers licences or the development of multidisciplinary practices which may further increase the competitiveness of the industry. Greater competition can be expected to deliver value for money to consumers.

The bill has been structured consistently with the corresponding act of New South Wales and other jurisdictions as far as practicable. This will facilitate mutual recognition of conveyancers in other jurisdictions if possible in the future.

Regulations proposed to be made under the bill will prescribe qualification requirements based on the national financial services training package, which will provide students with some exposure to the conveyancing practices of other jurisdictions. As the conveyancing industry develops across Australia, these aspects of the bill will facilitate the

recognition of conveyancers licensed in other jurisdictions and vice versa.

Victoria is home to one of the largest, most complex property markets in Australia. The bill will allow government to properly manage the risks to consumers of conveyancing services in Victoria, while still supporting a competitive industry.

I commend the bill to the house.

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

Debate adjourned until next day.

CHARITIES (AMENDMENT) BILL

Second reading

Ordered that second-reading speech be incorporated for Hon. J. M. MADDEN (Minister for Sport and Recreation) on motion of Ms Broad.

Ms BROAD (Minister for Local Government) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

Background

The philanthropic sector has played an active role in assisting charities to fulfil their charitable purposes and functions. Philanthropic donations have assisted in the important work of public institutions such as galleries, museums, libraries and hospitals, which provide a wide range of services that benefit the Victorian community.

Charitable trusts are the legal vehicles that allow individuals, families and corporations to make philanthropic donations. Charitable trusts have a range of tax benefits under commonwealth income tax law: they are exempt from income tax and donations to charitable trusts are tax deductible.

The number of charitable trusts — particularly a class of private charitable funds established by the Australian Tax Office (ATO) called prescribed private funds — is steadily increasing. By 2004, there were about 220 prescribed private funds. The number of prescribed private funds is now approaching 500, of which 200 are based in Victoria.

The value of grants by Australian charitable trusts cannot be accurately measured, as there is no public reporting requirement and such figures are not collected by the Australian Bureau of Statistics. However, it is estimated that the 220 prescribed private funds established by 2004 held around $300 million under investment for future distribution. The entire Australian philanthropic sector (made up of over 1200 trusts and foundations) is estimated to distribute up to $500 million a year to charities.

Charitable trusts may only give to charities

The trustees of charitable trusts may only make grants for charitable purposes or to charities in accordance with the terms and conditions of their trust deeds. Normally, trust deeds specify that charitable trusts may only give to bodies that are charitable at law. If trustees make grants to bodies that are not considered charitable at law, then the trustees are technically in breach of their trust deeds.

The law has long held that a gift to a body for the purpose of carrying out a government function or the work of government cannot be a gift for a charitable purpose, even where the body performs functions that are clearly charitable in nature. This is because the law generally regards such bodies to be carrying out their functions for a governmental, rather than a charitable, purpose.

Since the 1990s, a series of Australian court decisions have created uncertainty about the legal meaning of 'charity' or 'charitable at law' as it relates to government-linked bodies. These court decisions have very broadly interpreted the kinds of bodies that are considered to carry out a 'function of government' or the 'work of government', even if these bodies have purposes and functions that are otherwise charitable.

These decisions have led to confusion about whether a wide range of government-linked bodies are charitable at law, even if the community would perceive such bodies to clearly be charities. Public hospitals, museums and libraries are examples of such bodies.

As a consequence of these court decisions, charitable trusts are experiencing considerable uncertainty and difficulty in determining to which government linked bodies — that are also charities at law — they may make grants. Currently, charitable trusts cannot make grants to a broad range of government-linked bodies, including government-linked public hospitals, the Royal Botanic Gardens and the National Gallery of Victoria, without the risk of breaching their trust deeds.

These restrictions are frustrating the intentions of Victorian charitable trusts to continue making grants to bodies that have long been considered charities. These restrictions have also had an adverse effect on the recipient bodies undertaking charitable work. For example, Victorian government-linked public hospitals estimate that, until recently, they received around $15 million a year from charitable trusts, which makes up around 19 per cent of their total donations.

Objectives and features of the bill

The primary objective of this bill is to give Victorian charitable trusts the legal power to make grants to bodies with charitable purposes and functions, which are currently precluded from receiving grants from trusts only because of the bodies' connection to government.

The bill will extend the distribution powers of charitable trusts to enable them to make grants to bodies that qualify as 'eligible entities'. Bodies will qualify as 'eligible entities' if they have charitable purposes and functions, and are deductible gift recipients under the Commonwealth Income Tax Assessment Act 1997. Generally, deductible gift recipients have charitable purposes and functions, or perform work that is of benefit to the public. It is already a standard requirement of the deeds of certain types of charitable trust,

including prescribed private funds, that they may only make grants to bodies that are deductible gift recipients.

The bodies that will be able to receive grants as a result of the bill must also have a connection to government. The bill provides a non-exhaustive list of factors that may be taken into account in determining whether a body may be taken to be connected to government:

> the extent to which the body is under government direction or control; or
>
> the extent to which a body is required to implement government policy; or
>
> the extent to which the government may appoint members of its governing body.

The bill lists these factors only for the purposes of assisting charitable trusts to identify the bodies to which they are currently precluded from giving, but to which they will have the legal power to make grants after 'opting in' to the new law.

The bill will validate grants made by charitable trusts before the commencement of the bill to those eligible entities to which trusts would have been able to make grants in accordance with their trust deeds, but for the eligible entities' connection to government.

The bill will override charitable trust deeds only to the extent necessary to enable trustees to have validly made such grants in the past, and to make such grants in the future. The bill will not authorise charitable trusts to make grants that are inconsistent with specific prohibitions trust deeds on the making of grants to certain kinds of bodies.

The bill does not change the legal meaning of 'charities' or 'charitable at law' for any purpose other than to extend the distribution powers of charitable trusts, while maintaining their charitable status. The bill does not affect the capacity of bodies that may be connected to government within the meaning of this bill to be charitable at law.

The bill will extend the distribution powers of trusts in relation to grants to bodies linked with state and territory governments, local government and the commonwealth government.

Law only applies if trusts opt in

This bill will not alter the powers of charitable trusts or trust deeds without a decision of the trustees. The provisions of the bill expanding trusts' distribution powers will only apply to a trust when its trustees have executed a deed declaring the new law applies to it. This should ensure that trustees consider the tax and legal implications of 'opting in' to the new provisions.

The bill prescribes the form of such a deed to ensure the decision of the trustees is recorded with certainty. The prescribed form will also help trustees with the administrative aspects of 'opting in', as the ATO will require documentation of the decision of the trustees.

It should be noted that the bill will not, of itself, allow Victorian charitable trusts to give to these government-linked bodies. Further steps must be taken by Victorian charitable trusts and the commonwealth government for the bill to have full effect. Charitable trusts that 'opt in' to the legislation will only be able to exercise the legal power to make grants to government-linked bodies after they have obtained an appropriate tax endorsement from the ATO. It may also be necessary for the Commonwealth government to amend the Income Tax Assessment Act 1997 (Cth) to enable, from a tax perspective, charitable trusts to exercise the full powers available under the bill.

Other provisions relating to the administration of charitable trusts

I now turn to the other features of the bill, which improve Victorian law relating to the administration of charitable trusts and the interpretation of charitable trust deeds. These amendments implement various recommendations of the parliamentary Legal and Constitutional Committee's report on the law relating to charitable trusts.

> The bill repeals section 61 of the Religious Successory and Charitable Trusts Act 1958 ('RSCTA'), as it duplicates powers of the Supreme Court that already exist in the Court's common law jurisdiction and in other acts, such as the Trustee Act 1958 and the Charities Act 1978.
>
> The bill removes section 63 of the Religious Successory and Charitable Trusts Act 1958 and re-enacts an expanded provision based on section 63 in the Charities Act 1978. This amendment will broaden access for administrators and trustees of all charitable trusts, not just public charitable trusts, to seek leave from the Supreme Court to apply trust funds for additional purposes to achieve the purposes of the trust. This will assist trustees who are restricted in carrying out the purposes of their charitable trusts because their trust deeds provide them with only narrow powers.
>
> The bill removes section 131 of the Property Law Act 1958 and re-enacts this section in the Charities Act 1978, thus consolidating Victoria's provisions relating to the interpretation of charitable trust deeds.

The bill provides that the proposed provisions will come into operation on the day on which the bill receives royal assent.

This bill will allow charitable trusts to make grants to bodies that are effectively charities in their purposes and functions, but which are currently restricted from receiving grants from charitable trusts only because of their connection to government.

The bill will also improve the administration of charitable trusts and the capacity of trustees to carry out the purposes of their trusts.

The bill will assist Victorian charitable trusts to continue to make valuable contributions to the good work done by organisations with charitable purposes and functions. This initiative reflects the recognition by Victoria of the important role of charitable trusts in our community and our commitment to facilitating philanthropy.

I commend the bill to the house.

Debate adjourned on motion of Hon. C. A. STRONG (Higinbotham).

Debate adjourned until next day.

ROAD LEGISLATION (PROJECTS AND ROAD SAFETY) BILL

Second reading

Ordered that second-reading speech be incorporated on motion of Ms BROAD (Minister for Local Government).

Ms BROAD (Minister for Local Government) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

This bill makes a number of important amendments to the Road Safety Act 1986 and other acts within the transport portfolio. These amendments include:

tougher penalties to deal with the ongoing problem of drink-driving and drug-driving;

greater use of alcohol interlocks;

a range of measures to improve the safety of young and inexperienced drivers;

implementation of the National Transport Commission's model bill on the intelligent access program for heavy vehicles;

addressing deficiencies in the owner-onus system used in relation to traffic camera, parking and tolling offences;

providing for notification on the vehicle securities register and blocking of registration transfers where a vehicle impoundment application has been made under hoon driving laws;

measures to better protect against the rebirthing of stolen motor vehicles; and

transfer of responsibility for structures on roads over irrigation and drainage channels from road authorities to water authorities, and enable the transfer of responsibilities between road authorities and utilities by agreement.

The bill also makes some amendments to improve the land compensation provision in the Land Acquisition and Compensation Act 1986 and the Planning and Environment Act 1987 and to facilitate development at the Mount Hotham alpine resort and the redevelopment of the M1 freeway, including those parts of the Melbourne CityLink that form part of the M1.

Drink-driving and drug-driving

An independent report presented by the Victorian Sentencing Advisory Council in 2005 recommended substantial increases in the maximum penalty for repeat drink-driving offences.

Drink-driving continues to be a major contributor to death and trauma on our roads. In line with the Sentencing Advisory Council's recommendations, the new maximum imprisonment term for repeat drink-driving offences is being increased from 3 months to between 6 months and 18 months, depending on the breath or blood alcohol concentration of the offender and the number of prior offences he or she has committed. These increased penalties reflect the seriousness with which the community views this behaviour and a common view that the current maximum penalty does not adequately accommodate the worst types of drink-driving cases. The maximum penalty available for drivers who refuse to submit to an alcohol test has also been increased to ensure that there is no incentive for offenders to minimise the impact of drink-driving penalties by failing to comply with testing requirements.

The maximum penalties for drug-driving offences will also be increased to ensure consistency with the maximum penalties for drink-driving offences. The maximum penalty for driving while impaired by a drug will be increased from 3 months imprisonment to 12 months imprisonment for a second offence and 18 months imprisonment for a third or subsequent offence. The maximum penalty for a roadside drug-testing offence will be increased from a fine of 6 penalty units for a first offence and 12 penalty units for a second or subsequent offence to a fine of 12 penalty units for a first offence, 60 penalty units for a second offence and 120 penalty units for a third or subsequent offence. In addition, licence cancellation periods for these offences will be doubled from 3 to 6 months for a first offence and from 6 months to 12 months for a second and subsequent offence.

Expansion of alcohol interlock scheme

The alcohol interlock scheme has been an important initiative for fighting the problem of drink-driving by focusing on harm minimisation and rehabilitation of drink-drivers and not just punishment of offenders.

This bill will expand the alcohol interlock scheme to further improve road safety and discourage drink-driving. It will make alcohol interlocks mandatory for a driver whose licence is cancelled for a first drink-driving offence involving a breath or blood alcohol concentration of 0.15 or more. Repeat drink-drivers will continue to be subject to mandatory alcohol interlocks, and the minimum period for use of the interlocks will be increased. The courts will also have the discretion to impose an alcohol interlock condition for a driver whose licence is cancelled for a first offence involving a breath or blood alcohol concentration of 0.07 or more. They will also be required to impose such a condition for a driver who was under the age of 26 years or was a probationary licence-holder at the time of a first drink-driving offence in cases involving a breath or blood alcohol concentration of 0.07 or more.

Finally, the bill amends the penalty for unlicensed driving in circumstances where the driver may or would have been subject to an alcohol interlock condition if their driver licence had been restored. This removes any incentive which a person whose licence has been cancelled for a drink-driving offence may have to not apply for their licence back on the basis that that licence may be subject to an interlock condition.

Young driver safety

The bill amends the Road Safety Act 1986 to better protect young and novice drivers, as part of the government's commitment in the Arrive Alive! road safety strategy. One-third of the road toll results from crashes involving

young drivers — in human terms this means over 100 deaths and over 2000 serious injuries each year. The reforms introduced in this bill will provide the opportunity to increase safety for our young drivers by better matching licensing arrangements and initiatives with their key road safety issues. The new measures are expected to save up to 800 casualties per year, including 12 fewer deaths and 190 fewer people seriously injured.

The government last year released a discussion paper on young driver safety and graduated licensing. The measures proposed received overall community and stakeholder support and the government will now act to implement a new graduated licensing system which will include:

an extension of the minimum learner period from 6 months to 12 months for learner drivers aged less than 21 years applying for a probationary licence;

a requirement for 120 hours of supervised driving experience for learner drivers aged less than 21 years applying for a probationary licence;

an improved driving test;

a two-staged, 4-year probationary period divided into a 12-month P1 period and a 3-year P2 period;

a ban on any mobile telephone use during the P1 stage, and also a restriction on towing except for work or when under instruction during this stage;

a requirement for a good driving record to progress through licence stages;

a requirement for P1 drivers to display a P-plate with a white P on a red background, and P2 drivers to display a P-plate with a white P on a green background;

support programs for new drivers, parents and supervising drivers, and driving instructors;

a new high-powered vehicle restriction; and

alcohol interlocks for first-time drink-driving offenders who hold a probationary licence or who are aged under 26 years.

This bill specifically allows for the implementation of:

the two-staged P1 and P2 probationary period;

the requirement for a good driving record to progress through licence stages;

alcohol interlocks for drink-driving offenders on a probationary licence or aged less than 26 years; and

the compulsory carriage of licence for drivers aged less than 26 and compulsory carriage of learner permit.

The government will make the required changes to regulations and administrative systems to implement the total package over the next two years. Changes to the licensing system will not increase the cost of learner permits or probationary licences.

Intelligent Access program

The Intelligent Access program is a voluntary program whereby heavy vehicle operators agree to remote tracking of the movement and location of their vehicles, to ensure they are complying with agreed operating conditions in return for less restrictive access on the road network than an equivalent vehicle that is not tracked.

Under the scheme transport operators will engage a private sector company to provide compliance monitoring services, and that company will notify VicRoads as the responsible road authority if the operators are in breach of the agreed conditions.

The Intelligent Access program proposal is consistent with the government's approach to introduce smart solutions to improve industry efficiency. In particular, it will assist in coping with the freight task, which is projected to double over the next 15 to 20 years.

The Intelligent Access program is a national road transport reform and has broad industry support. The National Transport Commission's model bill on which the proposed amendments are based has been endorsed by the Australian Transport Council.

The amendments ensure that privacy issues relating to driver identification are managed to ensure the collection, storage and security of information is protected against loss, unauthorised access, use, modification or misuse.

Owner onus

Under the 'owner-onus' system which is used in relation to traffic offences detected by safety cameras, parking offences and payment of tolls on City Link, the registered operator of a vehicle (or the person responsible for the numberplates displayed on the vehicle) is responsible for offences committed through use of the vehicle. However, the 'owner' may avoid liability by nominating the actual driver, or by establishing that he or she could not reasonably have known who the driver was, or by establishing that the vehicle or numberplates had been stolen.

However, the current system does not adequately provide for the identification of the person responsible for the use of a motor vehicle, particularly where that 'person' is a company. In particular:

A vehicle operator can nominate the person who was driving at the time of an offence (if known) but not the individual or entity who had control of the vehicle. In many cases, the owner knows who had possession of the vehicle but not who was driving it. For example, the operator may know the name and address of the company or individual who had possession of the vehicle on lease or loan, but not who was driving it at a specific time.

Companies and similar entities cannot be 'drivers', and so the chain of nominations breaks whenever a car is leased or lent to a company. This severely limits the usefulness of traffic cameras as an enforcement tool in the transport industry — many companies rent vehicles as required.

Unlike the registered operator, a person who leases or borrows a vehicle has no obligation to assist police to identify the actual driver.

Registered operators can avoid liability by alleging that another person committed the offence but without providing enough useful information to identify or locate the alleged offender. The name may be incorrect or the address out of date, or sometimes even fictitious. The act does not give agencies the discretion to reject inadequate nominations.

It is difficult to prosecute for making false statutory declarations in support of nominations. This requires a charge of perjury, which is an indictable offence and would be a disproportionate sanction.

To address these deficiencies, it is proposed to amend the owner-onus provisions in relation to parking, traffic camera and City Link tolling offences as follows:

A registered operator may nominate the person or company who had possession or control of the vehicle at the time of the offence, as well as the actual driver. The nominated person then becomes the 'responsible person' for the offence. In effect, 'owner-onus' responsibility may be transferred to the person or company nominated as the 'responsible person'.

A nomination must be accompanied by supporting information sufficient to enable that person to be identified and located. The nominated person can avoid liability by showing that their nomination was incorrect in which case responsibility reverts to the person who nominated them. As at present, responsibility may be avoided by showing that the identity of the responsible person is not known for some good reason, for example, the vehicle was stolen or used by a person unknown and, for reasons beyond the operator's control, the operator has no way of establishing the identity of the person driving or in charge of the vehicle at the time of the offence.

A 'responsible person' has the same options as the registered operator. They can nominate another person as the driver or person in charge, and that person becomes then the 'responsible person'.

The nomination process repeats until the actual driver is ultimately located or a good reason is established for the actual driver's identity being unknown, for example, that the car was stolen.

A 'responsible person' will be required to assist police to identify the driver of a vehicle, in the same way as an owner must at present.

A summary offence of providing a false statement in relation to the operator-onus system is created.

These amendments will enhance the significant road safety benefits from traffic cameras and the operation of the tolling system on Melbourne CityLink.

The amendments will also enable the use of traffic where the camera detects only one element of the offence, such as the use of point-to-point cameras for speeding offences.

Rebirthing of motor vehicles

This bill includes an offence of tampering with a vehicle identification number or other label or mark on a vehicle that uniquely identifies it and sets it apart from similar vehicles. This is intended to deter criminals who perpetrate vehicle rebirthing scams and assist the police in successfully prosecuting those who engage in this activity.

Vehicle impoundment

This bill reinforces the government's commitment to introduce a vehicle impoundment scheme that discourages hoon driving behaviour.

The vehicle impoundment scheme allows a court to order that a repeat hoon offender's motor vehicle be impounded or immobilised for up to three months and if the person continues to offend their motor vehicle can be forfeited. If a person is notified of an application to have their motor vehicle impounded, immobilised or forfeited they are not allowed to sell or otherwise dispose of the motor vehicle. Despite this law, it is possible that some people subject to these applications may attempt to frustrate the application by having their motor vehicle registered in another person's name or by selling the motor vehicle to an innocent third party who is not aware of the application.

The proposed amendments will address this by requiring VicRoads to block the transfer of registration of a motor vehicle if Victoria Police is applying to the court for an impoundment, immobilisation or forfeiture of that motor vehicle. Victoria Police will also be allowed to place a record about that motor vehicle on the Vehicles Securities Register to warn potential purchasers that it may be subject to an impoundment, immobilisation or forfeiture order.

Structures on roads over irrigation and drainage channels

The Road Management Act 2004 currently assigns responsibility for structures on roads over irrigation and drainage channels to road authorities. This is inconsistent with the basic policy underlying the act that owners of infrastructure assets in the road reserve (in this case water authorities) are responsible for those assets. It is also imposing significant additional responsibility and financial burden on local government in particular with regard to the management of these structures.

Prior to the introduction of the act, water authorities were the owners of structures on roads over irrigation and drainage channels. Their budgets and water charges incorporated a component to cover maintenance and asset renewal costs for these structures, except where VicRoads had agreements to the contrary for larger structures on arterial roads.

It is proposed to amend the act to transfer responsibility for these structures back to water authorities. The proposed changes will not impose on water authorities any greater obligations than existed prior to the introduction of the Road Management Act.

With regard to the larger structures on arterial roads over irrigation and drainage channels, the government's view continues to be that it is in the state's interest for the state road authority to manage these structures. This arrangement is consistent with a memorandum of understanding entered into between VicRoads and rural water authorities prior to the introduction of the Road Management Act whereby

VicRoads accepted responsibility for managing these larger structures.

As a result, a further amendment to the act is proposed to enable the transfer of responsibilities between road authorities and utilities by agreement. This amendment will allow for the transfer of responsibility from a water authority to VicRoads to manage the larger structures on arterial roads over irrigation and drainage channels.

This power could also be used to enable the transfer of other responsibilities between road authorities and utilities where both parties agree to that. There is already a precedent for this in the Road Management Act, whereby road authorities may enter into arrangements with each other to transfer their road management functions.

The measures taken by this bill continue the Bracks Labor government's efforts to facilitate the safe and efficient use of Victoria's road network.

Land compensation

The bill also amends the Land Acquisition and Compensation Act 1986 and the Planning and Environment Act 1987 to correct the operation of those acts in circumstances where they do not provide landowners, whose land is acquired, with compensation that properly reflects their loss.

The act provides for compensation to be paid to landowners for land actually acquired. Where only part of the land is acquired, compensation is also paid for the impact of the acquisition on the balance of the land remaining in the landowner's possession.

This issue can arise in the following way. In the development of road or rail projects, a public reservation is imposed on land, often years before any acquisition activity. When the land affected by that public reservation is subsequently acquired, compensation is payable if, as a 'consequence' of the public reservation, a planning restriction (such as a zone boundary) is imposed on the land remaining in the landowner's possession.

This is a fair and proper outcome where the planning change has been caused directly by the project, or it has been made as a step in, or to facilitate the project, or if the restriction is imposed for the same purpose as the public reservation.

However, planning instruments sometimes adopt the alignment of public reservations for purposes unconnected with the public reservation. For example, a zone boundary may adopt the alignment of a road or rail reservation, before any acquisition activity commences, as a convenient or practical landmark for planning purposes. In that case the 'consequence' rule would probably apply to subsequent acquisitions. This is because the planning instrument can be said to have been imposed as a 'consequence' of the public reservation: that is, if the public reservation had not been placed in that alignment, the planning instrument would not have adopted that alignment.

This can lead to unfair results. It can lead to taxpayer money being spent to compensate landowners for the impact of a planning restriction on their land where the planning restriction is imposed as part of the normal planning process, not as a result of a government infrastructure project. This is inconsistent with the usual rule that compensation is not payable for the impact of planning changes. It involves additional compensation being paid for planning changes only. It is not, therefore, a payment that properly reflects the loss suffered by the landowners as a result of the acquisition.

Conversely, the 'consequence rule' can also lead to landowners receiving reduced compensation for the acquisition of land, in some cases to no compensation. This is an odd result, and is a product of the relationship of complex and technical provisions of the act.

The proposed amendments will correct this inequity. They will enable zone boundaries to be taken into account where a zone boundary is imposed, after the date of the public reservation of the land, for a purpose other than the purpose for which the land is acquired. This means that the actual zoning can be taken into account where the zoning change was not made as a step in the infrastructure project for which the land is reserved. It will allow the zoning to be ignored in assessing compensation where the zoning is imposed by a planning instrument as part of or to facilitate a public infrastructure project. In the latter case landowners will be compensated for zoning changes that are imposed as part of or to facilitate a public infrastructure project.

Mount Hotham alpine resort

The bill inserts a new part 5A into the Alpine Resorts (Management) Act 1997 in order to facilitate a major new development proposed for the Mount Hotham alpine resort. The proposed development, subject to planning approvals, involves the construction of a resort complex, new apartment developments and the creation of retail space. A key element of the proposal to create the development sites and a pedestrian environment within the village is the realignment of the Great Alpine Road. The realigned road will be elevated and an integral part of the road design is a multi-level car park to be constructed below the road. Rights to use the car parking spaces are to be sold to the purchasers of the new apartments and commercial and other use of the car parking spaces is also proposed. It is important for apartment purchasers that the rights to the car parks that are granted in connection with the sale of an apartment are for the same term as the sublease of an apartment — a maximum of 99 years under the Alpine Resorts (Management) Act 1997. The proposal to grant the various rights to the car parks is a novel arrangement in the context of the Road Management Act 2004 and the Alpine Resorts (Management) Act 1997 and is not specifically catered for in those acts. The amendments clearly empower VicRoads to grant the necessary rights of use and access in respect of road infrastructure for up to 99 years to the Mount Hotham Alpine Resort Management Board, while enabling VicRoads to retain any powers it requires such as maintenance powers. The amendments also clearly empower the Mount Hotham Alpine Resort Management Board to on-grant rights to third parties with further on-granting by those parties provided for. These amendments, which relate specifically to the site of the proposed road realignment, will provide confidence to VicRoads, the Board and importantly, the ultimate users and purchasers that their rights are soundly based, despite the novelty of the proposals.

M1 redevelopment project

The bill proposes a range of amendments to the Road Management Act 2004 and the Melbourne City Link Act 1995 to facilitate the upgrade of the M1 freeway from Yarraville in the western suburbs to Doveton in the

south-east. This includes the sections managed by VicRoads and those owned and operated by Melbourne CityLink Ltd under the City Link concession. Collectively, the upgrade of these roads is known as the 'M1 redevelopment project'.

This project is a leading-edge solution to Melbourne's most heavily trafficked and economically important transport connection — the West Gate to Monash corridor. The solution includes not only civil engineering work to improve capacity but a dynamic, intelligent system to maintain smooth traffic flow despite increasing future demand. This is the freeway management system of tomorrow, including real-time information on travel and road conditions to enable users to make route choices. It will bring to Melbourne a combination of the latest and best freeway management practices from Germany and the Netherlands.

The bill will amend the Road Management Act 2004 to facilitate the necessary planning approvals and to expedite acquisition of both public and private land to enable construction to proceed on schedule. The bill also amends the Melbourne City Link Act 1995 to allow amendments to the concession deed and related agreements relating to the upgrade of the City Link sections of the M1. The bill will also authorise construction and operation of the upgraded road by CityLink Melbourne on terms consistent with the contractual arrangements.

I commend the bill to the house.

Debate adjourned on motion of Hon. R. H. BOWDEN (South Eastern).

Debate adjourned until next day.

FUNERALS BILL

Second reading

Ordered that second-reading speech be incorporated for Hon. M. R. THOMSON (Minister for Consumer Affairs) on motion of Ms Broad.

Ms BROAD (Minister for Local Government) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

Arranging a funeral occurs at a difficult time for consumers. Vulnerable from the grief associated with the death of a relative or friend, consumers must arrange a funeral within a limited time frame, including purchasing of funeral goods and services that they are likely to know little about.

Many consumers who arrange a funeral will be doing so without any prior dealings with the funeral industry, or any understanding of what is involved in arranging a funeral service. As a result, consumers rely heavily and often solely on funeral directors to provide information and assistance in arranging their funeral.

Funeral providers provide an important service to the community. The majority of funeral providers operate professionally and ethically, treating the deceased and their family with dignity and respect. There are, however, examples where people have had their vulnerability and inexperience taken advantage of, and it is this type of exploitation that this bill aims to address.

The bill implements a number of the commitments made in the Victorian government's response to the Family and Community Development Committee's inquiry into the regulation of the funeral industry.

The bill aims to both empower consumers dealing with the funeral industry, and increase the government's capacity to protect consumers at a particularly vulnerable time in their lives. Nevertheless, the bill has been developed to minimise the compliance burden for businesses that operate professionally and ethically.

As a result of this bill, funeral providers will now be required to clearly disclose prices for funeral goods and services to consumers up front.

For consumers, the problem caused by having little prior experience or information can lead to the acceptance of non-price competitive funeral items or the purchase of goods and services they do not need.

Currently, there is reduced incentive for funeral directors to provide transparent and non-discriminatory information, knowing that consumers must choose their provider within a short time frame, and often choose the first provider that they contact.

This bill requires that funeral providers produce a clear and legible funeral goods and services price list, which sets out a description and the price of funeral goods and services offered by the funeral provider, including a description and price of coffins offered for sale.

Funeral providers will be required to provide the price list to any individual who asks them in person about their funeral goods or services or on request.

These price disclosure requirements will ensure that consumers have access to information that will allow them to make more informed decisions when arranging a funeral.

The price list will be complemented by the statement of goods and services, which funeral providers must give to a customer before entering into final agreement for the provision of funeral services.

This statement will set out the individual goods and services that the customer wishes to purchase, the price of each individual item, and the total cost of the funeral. This statement will require that the funeral provider clearly disclose any service fees charged and provide a reasonable estimate for disbursements.

Vulnerable consumers are less likely to approach government agencies to make a complaint in the same way that other consumers do. As a result, consumers who are dissatisfied with the services of a funeral provider are likely to be reluctant to make a complaint to Consumer Affairs Victoria. For that reason, it is important that funeral providers have appropriate complaint-handling procedures to ensure that customer complaints are handled effectively and vulnerable consumers are not deterred from seeking redress.

This bill requires funeral directors to establish and maintain written complaint-handling procedures and obliges funeral providers to notify customers of these procedures, and how to make a complaint. Complaint handling guidelines for funeral providers will be developed to assist funeral providers create their own procedures and ensure that best-practice complaint handling techniques are adopted.

The bill provides for the establishment of a register of funeral providers in Victoria. The register has a number of benefits. The register will provide members of the public with access to a list of funeral providers in Victoria. This will allow consumers to verify the details of the funeral provider, including the physical address of their place of business, before the service of that funeral provider is engaged. The register also provides for the identification and monitoring of funeral providers in the industry. The register will improve the government's ability to communicate effectively with the funeral industry, and will provide for better targeted compliance and enforcement activity.

The parliamentary inquiry into the regulation of the funeral industry recommended the development of a register of prepaid funeral contracts to enable consumers and funeral directors to expeditiously verify details of existing contracts. The creation of a prepaid funeral register is provided for by this bill. The register will provide a way for individuals to access information about prepaid funerals where they may not have known about the specifics of a prepaid funeral contract that a relative may have entered into. The details of a prepaid funeral register, including the form of the register, will be prescribed under regulations. This will allow for the development of the register in consultation with the funeral industry.

Protecting the privacy of individuals who have purchased a prepaid funeral contract will be important in the implementation of the prepaid funeral register.

Inspection powers will be enhanced by the implementation of this bill. Inspection powers are an important component of an effective compliance and enforcement program. They are necessary to ensure funeral providers comply with the requirements of this bill and the existing provisions in the Funerals (Pre-Paid Money) Act 1993. These powers include the provision for the inspection of a funeral provider's premises when an offence against this bill is believed to have occurred.

This bill is the outcome of the parliamentary inquiry, which was supported by extensive stakeholder consultation, which the government continued with during the development of the bill. The Victorian government commits to continue working with the funeral industry in the future, through this bill's creation of a Funeral Industry Advisory Council. The council will have employee and employer representatives from the funeral industry, representatives from the health industry and representatives of consumer interests.

The bill also provides for the development of a mandatory code of conduct for the funeral industry. This code of conduct will be implemented through regulations, and will be developed in consultation with the Funeral Industry Ministerial Advisory Council.

This bill will empower consumers at a time of vulnerability, through enhancing transparency and accountability in the funeral industry. This bill succeeds in strengthening consumer protection in the funeral industry, without imposing a significant regulatory burden on business.

I commend the bill to the house.

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

Debate adjourned until next day.

TRANSPORT (TAXI-CAB ACCREDITATION AND OTHER AMENDMENTS) BILL

Committed.

Committee

Clauses 1 to 24 agreed to.

New clause

Hon. R. H. BOWDEN (South Eastern) — I move:

Insert the following New Clause to follow clause 11—

'A. Offences relating to security cameras and privacy of passengers

After section 158B(6)(a) of the **Transport Act 1983 insert**—

"(ab) without limiting paragraph (a), applies to prohibit anything done by a member of the police force in the course of investigating an offence involving violence or the threat of violence alleged to have been committed in a taxi-cab; or".'.

This bill is important inasmuch as the taxi industry is a vital part of our public transport system, affects millions of Victorians on a daily basis and is required to provide a high level of service, efficiency and, above all, safety for the operators, drivers, other members of the industry and the travelling public.

One of the considerations that we would respectfully suggest to the government is the desirability of giving Victoria Police the ability to download images from the taxi cameras that are installed in vehicles. These cameras give a recognised level of protection by providing images of both the driver and the occupants of the cab and therefore dramatically enhance the probability of the authorities being able to trace the people involved should there be a reportable incident and provide follow-up whatever the purpose of that follow-up may be.

The opposition suggests to the government that the bill would be improved if Victoria Police members were

authorised to have access to and could readily download images should they wish to do so. Given the irregular hours of the taxi industry and its 24-hour-a-day, 7-day-a-week operation, the ability to have rapid follow-up and downloading of images if a reportable incident should occur would be of great advantage to passengers and taxidrivers. We believe that the men and women who provide the service and the industry deserve the very best consideration and resources that we as a state can provide. It is important that we support them.

The amendment is intended to enable Victoria Police to have access to and to download images without impediment should the police need to find people who have acted inappropriately or in ways that have led to great concern. We are asking the government to acquiesce to this request. We put it forward as a positive recommendation.

Hon. B. W. BISHOP (North Western) — On behalf of The Nationals I rise to support the opposition amendment. In the debate yesterday we spoke about the taxi industry as a unique industry. A number of speakers said that our industry is probably the only one in the world where someone can step off the street, get in a car and believe they have absolute safety. I think it is a good thing that they believe that. It is good that that perception exists throughout our community. However, over the last few years we have seen more violence directed at drivers and, in some cases, at passengers in our taxis. I believe this is a practical amendment that would go a fair way towards ensuring that anyone who committed any of those acts could have action taken against them. We have spent a lot of time in this house on related matters. A couple of large bills in relation to the taxi industry have been introduced to ensure that the drivers, the operators, the depots and everyone else in the industry is fully accredited. We think that is a good thing, and we supported those bills. However, the missing link appears to be the step we now need to take to ensure the safety of both drivers and passengers.

One of the elements in this regard is the presence of video cameras in taxis. Those cameras record acts of violence and fare evasion. The missing link seems to be that Victoria Police members do not have full access to the recordings. It seems to me that in today's world of modern technology it should be a very simple matter for a taxi to pull into the depot and download a recording. The recordings of any incidents such as those I have mentioned could be beamed directly into a police facility in a seamless process. That would ensure that all involved in the taxi industry could feel a degree of comfort and that Victoria Police had full access to those video images. We believe that would go a long way towards protecting both drivers and passengers.

Ms BROAD (Minister for Local Government) — In response can I firstly indicate that the government does not support the amendment. However, I acknowledge that the government believes what Mr Bowden is seeking to do through his amendment is in line with what the government wants to do as well — that is, to have an effective way of using security films in the taxi industry to address criminal activity in a timely and effective way. That is what the taxi industry task force is charged with.

In addition, in the lower house the minister also indicated that the government's view — and the advice to me — is that the existing provisions in fact provide an exemption for a member of the police force acting in the course of his or her duty, as long as that relevant activity would otherwise be lawful, and that there is nothing to prevent members of the police force from being authorised under the act. The government's advice is that the amendment would not effectively achieve anything different from what the bill will implement.

The minister also indicated in the lower house that to make the use of security films effective it is important that the downloading of film is carried out by a person who has been properly trained and accredited to do that and that that, amongst other things, is important to make sure that the downloading process does not jeopardise the evidentiary process. The advice to the government is that the attitude of Victoria Police is that they would rather have specially trained people undertake the task, to ensure that the evidentiary process is not jeopardised. The issue of police carrying out the downloads will be submitted to the taxi industry safety task force. If, following that consideration, the task force determines that the police are able to carry out the downloads in a satisfactory way which does not jeopardise the evidentiary process and police agree to it as a preferable way to go, then no amendment is required to achieve the effect of what Mr Bowden seeks through moving this amendment.

Those are the reasons why the government does not support the amendment and acknowledges that the amendment moved by Mr Bowden is certainly in line with the intentions of what the government is seeking to achieve.

Committee divided on new clause:

Ayes, 17

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

Noes, 20

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

New clause negatived.

Reported to house without amendment.

Report adopted.

Third reading

Ms BROAD (Minister for Local Government) — I move:

That the bill be now read a third time.

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

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

OWNERS CORPORATIONS BILL

Second reading

Debate resumed from 12 September; motion of Hon. J. M. MADDEN (Sport and Recreation).

Hon. W. A. LOVELL (North Eastern) — I rise to speak on the Owners Corporations Bill and at the outset acknowledge that the Liberal Party will not be opposing this bill. The bill will create a new legal framework for the governance of bodies corporate, which will now be known as owners corporations, and will provide for the management, powers and functions of owners corporations and for resolution of disputes relating to owners corporations. It will also amend the Subdivision Act 1988.

In any civilisation where people live closely together there always needs to be some sort of democratic process for sorting out their affairs; that can be by a level of government, as in a federal, state, or local level of government. When we live in a closely-confined situation, such as in an area where there may be several units on a block or a multistorey apartment building, we need some sort of governance arrangement to deal with the day-to-day difficulties that arise from people living in such close proximity. An owners corporation is another form of governance — a governance for those people who are living in close proximity to each other in a domestic situation.

In my time I have had experience with a couple of different types of bodies corporate, both at opposite ends of the scale. One was run by the residents of the area in which the units were located. The other involves quite a large body corporate which is run by an Inner Melbourne City Management here in the city. It deals with the complex in which the apartment I use as my second residence when I am at Parliament is located. My family has also been involved in a body corporate to do with a shopping complex, in that we have a business in a marketplace complex in Shepparton. That has given me quite a good overview of the different sorts of issues that can arise for members of a body corporate.

When I arrived in Melbourne a couple of weeks ago I saw that the swimming pool above the car park of my apartment complex had leaked. As I drove through the car park down several levels to where my car space is at the bottom, I saw that the pool was leaking down through every level of the car park. I have to admit that I looked at it and thought, 'Thank goodness it is someone else's worry to sort out' — not only the mess but also the problem with the pump on the pool. I made a call to the manager of the body corporate to ensure that they knew this was happening, because it was a Sunday. They were aware of it and were onto it; they had had the pump fixed but the residual leaking still existed at the time I saw it. I was grateful it was somebody else's responsibility to sort out.

The first body corporate I was involved in, as I said, was run by residents within the area where the units were. The body corporate here in Melbourne is run by professional management, and although the owners are all involved in it, the day-to-day running is at arm's

length from the residents. The body corporate I was involved with, which was run by residents, was a little bit more awkward and was not something that I felt comfortable with. Some interesting situations arose out of neighbours running each other's business. However, bodies corporate do exist and some of them run extremely well, although I am not sure that the one I was involved with was run well.

This legislation has come out of a review undertaken by the Honourable Helen Buckingham, which began in 2003. I would like to congratulate Mrs Buckingham on her conduct of the review, which she did through what was a very difficult time for her. I would have to say that every member of this house had great admiration for her during that period of time for what she went through and for the way that she conducted herself through that time.

Unfortunately, I do not believe the legislation reflects the spirit of Mrs Buckingham's consultation. The bill before us does not reflect the creation of harmony within civilisations or within people's living arrangements. It has really been crafted to deal with the needs of the larger bodies corporate. It is overly prescriptive and will be extremely onerous for the vast majority which have less than five lots in their owners corporation, as it will now be called.

I turn to the main provisions of the bill. It will change the term 'body corporate' to 'owners corporation'. It will also create a three-tier dispute resolution process. The first will be an internal dispute resolution process; a default process will be set out in model rules which will be determined with the regulations. The second tier will be consultation or mediation, which will be offered by Consumer Affairs Victoria, and the third tier will be taking the dispute to the Victorian Civil and Administrative Tribunal.

Under the legislation managers will be required to register with the Business Licensing Authority, hold professional indemnity insurance and be solvent. The bill defines the various roles and responsibilities of the owners corporations, including committees of management, developers who control owners corporations, managers, lot owners and occupiers.

The bill sets out procedures for conducting annual general meetings. It also changes the disclosure requirements, requiring records of activities, undertakings and membership to be kept and made available for inspection at no charge to current and incoming owners. It requires the owners corporation certificate to be attached to the section 32 vendor's statement to ensure full disclosure of owners corporation fees and other matters to potential purchasers.

The bill also requires an annual financial statement to be presented at the annual general meeting, with larger owners corporations to have their financial statements audited. What size those owners corporations will be is still to be prescribed. We are unsure of just which owners corporations will be required to have their annual financial statements audited. Larger owners corporations will also be required to develop a maintenance plan and fund, and obtain valuations for insurance every five years. The bill also places restrictions on developers who hold the majority of power to ensure they represent the best interests of all owners.

There have been a number of concerns raised with us about this legislation. I thank the people who lent us their expertise and knowledge when we were going through this rather large piece of legislation. In particular I mention the Institute of Body Corporate Managers, the Real Estate Institute of Victoria, the Property Council of Australia and the Law Institute of Victoria, who all lent us their expertise. We also had input from the Tenants Union of Victoria and the Consumer Law Centre Victoria. We were able to draw on the expertise of Body Corporate Services, Ace Body Corporate Advisory Services and Victoria Body Corporate Services, as well as two very informed lawyers who deal with bodies corporate on a day-to-day basis in the persons of Justin Lethlean and Julie Van Dort. Their expertise was invaluable to us in the consultation on this bill. I would also like to thank the many Victorian citizens who are members of bodies corporate who also contacted the opposition to speak of their concerns about this legislation.

Before I go through the concerns that were raised with the opposition over this legislation I note that although nearly everybody acknowledged that what we have here is something that is better than what exists, they all felt it could have been improved upon. They did not feel it was in the spirit of the consultation that had been conducted by Mrs Buckingham, and everyone felt that once the legislative drafters got hold of it, it lost some of the spirit of the consultation.

The Law Institute of Victoria (LIV) has contacted the opposition and has also put a submission to the government. It is interesting that many of the other people we consulted with, but not the law institute, advised us that they were all expecting house amendments to be made to this bill. They were all confident, having spoken to the government after the bill had been introduced in the lower house, that there

would be amendments made to it, because most of them had raised the same concerns. The law institute said it:

> … welcomes the concept of the bill but considers that it still requires a great deal of revision.

That was basically the feeling of everyone we consulted. The institute also said:

> The LIV is concerned that the regulations to accompany the bill have not been provided since the initial draft of the bill was released in … 2005. This makes any commentary difficult as the whole package cannot be viewed at once.

I agree that it makes things very difficult when we have enabling legislation — a lot of enabling legislation goes through this house — but we do not get to look at the regulations at the same time, and because of this we really have no idea of what the real impact of the finer detail of the legislation will be. The law institute went on to say:

> While the new legislation is very welcome, some areas of the bill are overly complex, restrictive and place unreasonable burdens on an owners corporation.

The institute gave a summary of the major issues it had identified:

> The need to simplify the operation of committees.
>
> The need for an independent facilitator … to chair a meeting where there is a dispute or in a large development for the selection of a manager or committee.
>
> The commencement of legal action should require an ordinary resolution by the lot owners by a postal ballot or at a general meeting.
>
> General meeting should be defined to be a meeting or a postal ballot of all the lot owners.

To expand, a major issue was the overly complex requirements for committees. It said:

> The bill has been drafted in a prescriptive manner which will not be understandable for ordinary people living, working with and managing owners corporations.

So the requirements will be particularly onerous for small owners corporations that will be self-managed. The institute gave an example that the bill:

> … introduces a requirement that there must be rules to appoint or set the powers of a subcommittee. Drafting and registering rules may take more than 12 months to develop. Subcommittees are needed when urgent issues arise in larger developments. The legislation needs to provide greater flexibility.

The institute also questioned whether a manager could act as a chairperson or secretary of an owners corporation. That is certainly an issue that was raised with us by nearly all stakeholders in the consultation on this legislation. Most people said the bill failed to recognise that much of the role of the chairperson or secretary is currently undertaken by the manager, and certainly as a member of an owners corporation, I do not want to be the chairperson or the secretary.

Hon. D. K. Drum — Yes, you do!

Hon. W. A. LOVELL — I want to be able to select someone who wants to do that job or pay a professional person to take on that role. Mr Drum and I actually live under the same body corporate, so if I am going to be the chairperson, Mr Drum can be the secretary.

Clause 79 of the legislation restricts the chairing of general meetings to the chairperson and allows for a manager to chair a meeting only in the absence of the chairperson. It therefore restricts managers of larger owners corporations in chairing annual general meetings that might be attended by many of the residents and might require professional skills to keep things under control. An advantage of allowing the manager to be the chairperson is that it keeps the conduct of the meeting at arm's length from the personal conflicts that may exist in the closely confined area of an apartment building.

Clause 99, in conjunction with clause 107, requires a secretary to be elected from the lot owners and only allows for the manager to act as a secretary where an owners corporation does not have a committee or a secretary. Again much of the role of the secretary is undertaken by paid professional managers, and many people in owners corporations are happy for that situation to continue. Perhaps there should have been flexibility in this legislation to allow owners corporations to make their own decisions about whether they want one of their own to chair meetings or act as secretary or whether they are happy for a paid professional manager to take on that role.

The next issue raised by the Law Institute of Victoria was the use of the instrument of delegation. It said:

> Before 2001 an instrument of delegation was not required. Experience has shown that the requirement to have an instrument of delegation for lot owners carrying out tasks on behalf of the body corporate has been too restrictive.

It said the instrument of delegation is a problem because:

> Most lot owners on a committee do not have an instrument of delegation.
>
> The instrument of delegation can only be issued at the AGM (and needs the affixing of the common seal).

> Committee members and lot owners can change during the year and then the instrument of delegation is not valid.

Issues arise during the year and work needs to be carried out as required, but work will be restricted by the requirement to have an instrument of delegation. In other words if something arises during the year, you need to call another general meeting in order to have an instrument of delegation so that issue can be dealt with.

The law institute also raised the issue of a special resolution requiring a 75 per cent vote to commence any legal action, and stated:

> The LIV contends that the requirement for a special resolution to commence legal action is far too restrictive.

That was also raised by many people in response to this legislation. The special resolution under clause 96 requires 75 per cent approval, and many people say that will be almost impossible to achieve, particularly at Docklands where in certain buildings over 90 per cent of owners are investor owners and are therefore absent, so it is difficult to get 75 per cent of owners to a general meeting to vote in favour of that special resolution.

There is allowance made for an interim resolution to be made if the resolution is approved by only 50 per cent, failing to get the 75 per cent, but then it requires a further 29 days before that interim resolution will become a special resolution. You need to give 14 days notice of the ballot and a further 29 days notice to owners that there has been an interim resolution moved. They have the power to object, but if 75 per cent do not object then it becomes a special resolution. Most of the stakeholders say that this will particularly restrict the ability of owners corporations to object to planning applications et cetera where they may wish to take legal action.

The institute is also concerned about the definition of a general meeting and stated:

> The LIV proposes that a general meeting should be defined as a meeting or ballot of all the lot owners —

rather than just a meeting of the lot owners —

> Many lot owners are investor owners (in Docklands as high as 90 per cent can be investor owners) and on past experience very few owners attend meetings. Some managers report that no lot owners, or only a few lot owners, attend their general meetings. It is essential to facilitate the making of all decisions that can be made by the owners corporation to be made by postal ballot as well as a general meeting.

It gave examples, such as:

> (a) Adding or removing a committee or a committee member.
>
> (b) Affixing the common seal.
>
> (c) Any other matters to be determined by the owners corporation —

particularly affixing the common seal.

Under clause 20 there is a requirement for the common seal to be affixed only by resolution at a general meeting. People say that this is impracticable particularly with a car parking space that may belong to common property but runs with a lot, which means that if that particular apartment is leased out and the lessee changes, they need to affix that common seal to the lease. They will have to go back to a general meeting to do that. The institute is looking for some simplification, such as it being able to be approved by a committee to allow for the day-to-day running of the owners corporation.

Another issue raised by the law institute is the focus on compliance rather than on building communities. It stated:

> The LIV contends that the bill (with its focus on dispute resolution and compliance) will divert resources into compliance with legislation.
>
> Most current bodies corporate are working well. Under the current regulations, the body corporate uses the meeting to facilitate communication, resolve issues and find solutions to manage and maintain property. The proposed process will undermine communication at meetings and divert attention to ensuring compliance with the complaint or dispute processes.

The law institute also referred to the burden on small owners corporations and said that:

> The bill proposes to introduce new responsibilities on owners corporations and committees which will impose a disproportionate burden upon them. Some of these new responsibilities include:
>
> (a) Keeping and maintaining an accurate register of information relating to the owners corporation.
>
> (b) Preparing certificates in 10 working days.
>
> (c) Keeping accurate records of all decisions.
>
> (d) Ensuring each delegate has an instrument of delegation or written authority to act.
>
> (e) Making records available to owners and potential purchasers at no charge.
>
> (f) Making available minutes of committee meetings to lot owners.
>
> (g) Establishing a complaints procedure.
>
> (h) Making rules that can be enforced by VCAT.

(i) Making rules of the role and functions of subcommittees.

(j) Taking action in relation to complaints and disputes.

(k) Making and responding to complaints made to Consumer Affairs Victoria.

(l) Participating in conciliation on behalf of owners corporations.

(m) Making and responding to applications made to VCAT.

(n) Representing the owners corporation in hearings at VCAT.

Many people have said that these onerous responsibilities will force many of the smaller owners corporations to employ professional managers and go out of self-management. They say that this will cost people in owners corporations an additional $1000 per annum in owners corporations fees.

That was the next point the law institute raised, in that the bill will increase the cost of housing. It stated:

> The LIV envisages that members of committees may have difficulties obtaining leave from employers to attend conciliation and VCAT hearings.
>
> Due to the extra compliance costs, small self-managed bodies corporate of less than five lots … will now have to employ a manager which will increase the cost of housing for each lot owner (possibly $1000 per lot per year).

The law institute said that the restriction of an independent person to chair a meeting was contrary to a fair hearing. It stated:

> The bill also prevents the use an independent facilitator to chair meetings when there is a dispute where the owners corporation is so large that it needs a skilled facilitator to go over all the issues at an AGM.

The institute talked about the removal of a manager and said:

> The bill enables one person who has delegated powers to remove a manager. The removal of a manager has a significant impact on an owners corporation.

The institute feels that this provision should be consistent with other measures in the bill and requires a decision of a majority of members to remove the manager, not just the decision of one member.

I shall run through some of the other submissions made because they cover some of the same concerns. The Institute of Body Corporate Managers was concerned about the ability for managers to act as a chairperson or secretary. It said:

> Sections of this Owners Corporations Bill fail to recognise that managers perform much of the role of the secretary of the owners corporation and chairperson of general meetings …
>
> It does not make any sense that the manager can send out ballots and proxies but cannot receive them …

It asks how many owners who are secretaries would want to open their homes to other members of the body corporate or owners corporation so that they can inspect minutes et cetera. It believes it is a general practice where a body corporate has a manager that the manager chairs the general meetings, and that happens in 99.9 per cent of all meetings of owner corporations where they have a manager.

The body corporate managers institute says there is an excessive burden in the keeping of records, and raised concerns about the inspection times listed in the bill, which it says are unreasonable. The times should really be between 9.00 a.m. and 5.00 a.m. on a weekday or at any other reasonable time, but not open hours.

Concern was raised about the increased complexity that will cause additional cost to owners under the legislation, and it strongly recommends that managers should have a qualification-based registration, which is not something that is dealt with in the bill. Anybody can register to be a manager of an owners corporation and there is no requirement for any minimum qualification.

The institute is concerned about clause 193(d) in division 2, which is headed ‘Register of Managers’. Under that clause there is a requirement for a manager to provide information on all the owners corporations that are managed by that manager. The Institute of Body Corporate Managers Victoria does not feel this is what was intended in the final report presented by Mrs Buckingham. The institute questions what other industry has to publish a complete list of its client base and wonders what relevance it has.

The institute is concerned about the requirement for a manager to return records within 28 days of having been removed as a manager. It says there is no lien available that allows for a manager to withhold information if an outstanding amount of money is owed to that manager. If there is an outstanding sum of money owed to lawyers, they are able to withhold files until it is paid. However, there is no lien here to protect a manager who may have been removed but is still owed a significant amount of money by an owners corporation. I agree that a manager who has been sacked and paid out and where everything is above board should return any records within a reasonable time; and in fact 28 days is probably too long. If there is

a dispute, there has to be some way of settling it. In dealing with builders et cetera the best way you have of settling a dispute is to withhold perhaps the final payment. A manager trying to settle on his final accounts should be able to withhold some of the book work of an owners corporation, just as lawyers are allowed to withhold files.

The Real Estate Institute of Victoria (REIV) also had several concerns with this legislation. Restricting the chairing of general meetings to being chaired by a chairperson was a major concern. It felt there should be a provision that allowed a manager to chair a meeting. It acknowledged that the complexity of the legislation would lead to increased costs and body corporate fees. It was also concerned about security of owners' funds, which is something I have not yet raised. The bill allows for a manager who manages several owners corporations to keep the funds belonging to all corporations in a pooled account. The REIV was concerned that if there were a manager who was not completely above board or just wanted to do things a little bit more easily, there could be an opportunity to use funds belonging to a different owners corporation.

One of the examples it used was of two different owners corporations, one of which had significant funds and one of which was a bit short of funds. If the second one suddenly had damage to its pool or part of common property that needed to be fixed immediately, rather than raise a special levy on the owners corporation, the manager might say that because the annual fees were due in the next month it would just borrow money from the first corporation in order to have the work carried out immediately without having to go through all the processes of collecting special fees. That would be dishonest because it would be using someone else's funds to do it. Pooled accounts, which are not run under the same strict guidelines as some trust accounts, may allow that to happen. We hope it would not happen, but there would always be the temptation.

The REIV also felt that Victorian Civil and Administrative Tribunal would need to establish a specific list to deal with owners corporations issues because they are unique. There may be quite a number of them given the numbers of people who live in buildings run by owners corporations at the moment.

The REIV was also concerned about the inspection of the register of the manager and that anyone could get a full list of a manager's clients. As I mentioned, the Institute of Body Corporate Managers Victoria is also concerned about that matter. The REIV was concerned that there is no minimum qualification for managers. It raised the issue that there was not even a requirement for a police check, which is required for someone who is acting as an estate agent's representative. Someone who is not a fully qualified estate agent but acts as a representative has to at least have a police check. Someone could be a manager of an owners corporation without any minimum qualifications or being subject to a police check.

Julie Van Dort raised many of the same issues — the restriction of managers, the increased compliance workload and cost, and the requirement for the subcommittee to set up rules, which may take 12 months. She also raised the issue of the special resolution requiring a 75 per cent vote at a general meeting and the difficulty in gaining that. She spoke about the removal of managers. One person could make an application to Victorian Civil and Administrative Tribunal in this respect and she felt it would have a significant impact on many of the owners corporations. She also spoke about the definition of a general meeting. She felt it should be either a meeting of all owners or a ballot of all owners, just as applies with the law institute. She mentioned areas such as Docklands, which has up to 90 per cent of investor owners.

Justin Lethlean also raised a number of issues with us which were a little different to some others. He felt that clause 173, which allows for an application to the Victorian Civil and Administrative Tribunal for an administrator to be appointed, is too broad. He felt that VCAT could get clogged up with vexatious litigants. He thinks that part 12 of the act fails to ensure only suitable and qualified people are registered as managers, and that is one of the concerns that have been raised by several people.

He also raised the issue of proposed new section 33 of the Subdivision Act which requires a unanimous resolution to increase a lot entitlement or liability. He said that this will virtually never happen because if you need 100 per cent of the vote in order to increase the liability on a particular lot, that lot owner is highly unlikely to vote in favour, making it very difficult to get a unanimous resolution.

Mr Lethlean also raised concerns about clause 219, which deals with the attachment of the certificate to the section 32 statement. He feels differently to the law institute on this issue. He feels that 10 days is too long a period in which to produce the Owners Corporation Certificate and that it should be produced much more quickly.

The Institute of Body Corporate Managers raised many of the issues raised by others, as did most of the other

body corporate managers and many body corporate members who contacted the Liberal Party to give their impressions of how this bill will affect the running of their body corporates. One of the main issues is the increased complexity of this legislation and the fact that it will lead to increased costs and fees. Most people are estimating those costs to be up to $1000 per annum for smaller body corporate members, and that is a significant concern.

There were concerns expressed that the dispute resolution process is too long. Clause 155 allows 28 days for the rectification of an alleged breach. Clause 157 allows a further 28 days after the final notice is served, so if you have a tenant in a building who is playing loud music which is affecting everyone else, they should receive notice that they have 28 days to rectify the situation. If they have not rectified the situation in 28 days, they must receive a final notice which involves a further 28 days. We are talking about eight weeks, and that is a long time for residents to endure breaches that disturb the quiet enjoyment of their homes. A breach could involve a resident continually playing loud music, or, as one member of a body corporate reported, tenants in an apartment building who were throwing food and drink from balconies and continually having late and loud parties. This was disturbing the rest of the residents, and eight weeks would be a terribly long time for them to have to endure that behaviour.

Another concern that was raised with us by members of body corporates relates to clause 159, which deals with the reporting of complaints to the annual general meeting (AGM). They say that this presumes there will be no confidential settlement of disputes. If disputes are listed at the AGM it will often be easy to identify who has raised a particular complaint. I remember when we debated the Retirement Villages Act that it contained the same requirement; any complaint had to be reported on at the AGM. Village residents and the Retirement Villages Association raised the same concern that having to report back on a complaint at the AGM would mean there would no longer be confidential settlements of disputes.

That summarises most of the concerns that were raised with the opposition about this legislation. As I said earlier, the opposition is not opposing the bill. We are disappointed that the government did not listen to the concerns raised by many people, and we are particularly disappointed that many organisations were given the impression that the government would be introducing house amendments. In fact several of the submissions that were put to the government after this legislation was introduced into the lower house were prepared by Robert Larocca, a former adviser to the minister. The people he was dealing with were convinced that amendments were going to be made to this legislation.

The Liberal Party will not be opposing the bill. We recognise that times have changed since the 1988 Subdivision Act was passed to govern the operations of body corporates. At that time there were only 35 000 body corporates in Victoria, covering about 200 000 people who lived or worked in a building covered by a body corporate. We have moved on and today there are 65 000 body corporates in Victoria. It is estimated that at least 1 million people live or work in a building that is covered by a body corporate.

We still need to recognise that this bill has been prescribed for larger lots which really account for only about 25 per cent of body corporates in Victoria. There are still around 30 per cent or 144 000 body corporates that contain five lots or less and which are more likely to be self-managed and will be detrimentally affected by this legislation. A further 45 per cent of body corporates only cover between 5 and 100 lots, and only 25 per cent cover over 100 lots, but with the development of some of the larger buildings that are going up around Melbourne that figure will increase. For that reason everyone recognised that there needed to be changes to the legislation.

It is a shame that this bill has not been crafted in a more conciliatory and flexible manner so that it could have dealt with some of those smaller body corporates and not been so onerous on them. However, the Liberal Party will not oppose this legislation.

Hon. D. K. DRUM (North Western) — Before I make my contribution to the Owners Corporations Bill I would like to take the opportunity to thank you, Acting President Hilton, for the work you have done in the Parliament over this last term. I might not get the opportunity in the next sitting week to tell you that it has been an absolute pleasure to have you as part of this chamber. Indeed, none of us might have the opportunity to say anything in this chamber in the future. Thank you very much, Acting President, for your help throughout the course of the last year, especially in our work together on the Environment and Natural Resources Committee.

The Nationals will also not be opposing the Owners Corporation Bill. We have identified that the regulatory framework of the industry does need some adjustment and some alteration. The bill will establish the management, powers and functions of owners corporations and will also amend the Subdivision Act

1988. The bill will effectively change the name of what we have come to know as bodies corporate — the organisations that look after those predominantly residential allotments that have joint use of common areas — to owners corporations. The bill will also put in place some dispute resolution mechanisms, but it is predominantly aimed at establishing a legislative and a regulatory framework that will help administer and run what will be known as owners corporations. There are some 65 000 bodies corporate or owners corporations in Victoria looking after some 480 000 lots. Some 30 per cent of these bodies corporate are very small and contain five lots or less.

I must also acknowledge the initial groundwork that Mrs Buckingham has done in going out and talking to the sector in order to identify the issues and bring them to the Parliament to enable it to frame this legislation around those issues. One of the major debating points about this bill is whether it goes far enough in relation to the licensing of the managers of owners corporations. The government has chosen to take the small-stick approach to the industry as opposed to forcing anyone who is involved in the management of an owners corporation to become licensed. It has opted to simply form a registry, and there will not be a requirement for managers of owners corporations to be licensed.

The bill will put a lot more onus on the members of management committees for the management and running of owners corporations, and it will also effectively give more responsibility to the chairpersons of those management committees. Where there is a manager, it will be up to the committees to oversee the manager's duties. It will be up to the management committees to oversee the management of their own bodies corporate or owners corporations. Obviously the larger ones will bring in outside managers, and some of those managers will be acting on behalf of 20, 30, 40 or more owners corporations and organising the maintenance plans and financial plans for those corporations.

When you look into this sector, it is amazing to think we have not had a major problem with finances in the sector. We have very large bodies corporate, and on average they are getting larger, and the amounts of money that each member of those bodies corporate contributes either on a quarterly or an annual basis is quite substantial. For good reason, there should be real concern over the management and/or mismanagement of the funds involved in an owners corporation. This bill will effectively bring into being some stricter financial reporting procedures which will hopefully eliminate the ongoing risk that is currently attached to the amounts of money that currently exist within the sector.

One of the other major aspects of this legislation is the dispute resolution mechanism. The bill will be putting in place a three-tier dispute resolution mechanism under which, in the first instance, an attempt will be made to get disputes resolved internally.

The crux of this legislation — and I am sure Mrs Buckingham will go into this in more detail later — are the kits that are proposed to be handed out to each member of our owners corporations. These kits may be available at real estate agents upon the sale of a relevant property. The kits may also be available at a local government level and online. The government has indicated it will provide some very extensive kits to the people involved in owners corporations to give them a better understanding of what their rights, duties and responsibilities are and how they should go about overseeing the role of their owners corporations, whether by taking on board the duties themselves in some of the very small owners corporations or by simply overseeing the management role that the larger professional managers put in place around them.

The stages of dispute resolution have been laid out very clearly in the bill. As I said, the first stage is the internal mechanism which is aimed at getting the dispute resolved internally. If resolution is unable to be achieved at a local level, Consumer Affairs Victoria will be able to step in. If Consumer Affairs Victoria is unable to alleviate the problems and resolve the dispute, then the bill provides an opportunity for the parties to go not to the Magistrates Court but to the Victorian Civil and Administrative Tribunal hopefully to get the issue sorted out once and for all. It is a better dispute resolution system than the one that currently exists.

A delineation is to be drawn between the smaller and the larger owners corporations. This line in the sand or this delineation has not been clarified in the bill, so effectively we have to wait until the regulations come out to see what will be classified as a small and what will be classified as a larger owners corporation. According to the classification, there will be differences in the reporting mechanisms and in the financial, accounting and auditing procedures. The larger owner corporations will need to put in place financial, accounting and auditing processes. This will not be necessary for the smaller owners corporations. Also, a maintenance plan will need to be very clearly outlined by the larger owners corporations; again, a maintenance plan will not need to be outlined by the smaller owners corporations.

This bill goes a long way towards effectively fixing the main problem we have in the sector at the moment — that is, that we have one-size-fits-all legislation. Obviously the sector has grown not only in size but also in variety. The bill covers a huge range of situations, and the regulations to be put in place need to be relevant to each respective situation.

Currently within this sector a trend is developing of developers going in and building residential units and apartments and effectively stitching up the maintenance plans and the body corporate proxies, effectively making themselves the beneficiaries of some very financially lucrative maintenance plans and projects by entering into non-competitive contracts with their own subsidiary companies. This bill puts in place measures to force developers to act in a dutiful and honest way making them act in good faith in exercising their majority vote. They must act with due diligence and in the interest of all owners corporations. We need to put in place measures to stop the growing trend of people setting up deals like those that appeared with some Australian Labor Party rental deals in Canberra. I am not sure what they were called but the ALP stitched up some nice deals for a number of years. We do not want to see that happening in the real world.

It was put to us that a few issues arise from the bill. At the moment you can have a body corporate with a manager who does a fine job and looks after the body corporate for you; a person who looks after the maintenance plans and has the accounting procedures under control. Many members of current bodies corporate simply want to make sure that things are under control and are being managed in an above board manner, and they would like their manager to run their annual general meeting (AGM). Currently, if there are no committee members present and the chairperson does not want to run the AGM, they can delegate that power to the manager. This bill will stop that happening.

We understand there have been calls for greater power to be given back to the committee of the owners corporation, although that power already exists. So if the chairperson of an owners corporation wishes to chair an AGM, they can already do that. Under this legislation they must always chair the AGM even if they know they are not suited to taking the chair. So now AGMs will bumble along with chairs continually deferring to a manager to assist with particular aspects of the business instead of letting the manager chair the meeting. If the committee wishes a manager to chair an AGM then he or she should be able to do so, but unfortunately this bill will not enable that to happen, although if the chair of a committee is away then a manager can step in. So concerns about that have been expressed by people who work in the sector. They are concerned that day-to-day practices will be compromised.

Earlier debate was about whether we should license the larger players in this business because they are going to be dealing with serious amounts of money. Quite a few managers of owners corporations are licensed real estate agents who have very onerous restrictions placed on them regarding the way they go about their business. However, there is nothing to stop anybody from starting up their own business to manage owners corporations. They do not need either a police check or the necessary skills that a licensed real estate agent needs to have. Only the future will tell whether we should have had such licensed people.

We hope the law institute's predictions that the bill will increase the cost of housing does not eventuate, and I do not think it will, but we will have to wait and see how this sector operates in the future now that it has this regulatory framework around it. Hopefully the bill will stop developers awarding themselves lucrative maintenance deals with irrevocable proxies. Part 3 of the bill headed 'Financial Management' gives owners corporations the ability to levy fees and borrow money. Clauses 26 and 27 give an owners corporation the power to invest and borrow money and to recover arrears owed to it. Clauses 33, 34 and 35 deal with auditing procedures and financial records.

The Nationals think this bill will help the industry. It will give people moving into buildings with owners corporations a lot more peace of mind. We hope the bill works well into the future, and commend it to the house.

Hon. H. E. BUCKINGHAM (Koonung) — Legislating for the betterment of the community is a noble act, but inevitably it is a balancing act between protecting people's individual rights and freedoms and protecting the rights and freedoms of the whole community. As good as laissez-faire government is, theoretically we need laws and regulations to enable society to function. Good governments work hard to get this balance right, and I believe the Bracks government has done this with the Owners Corporation Bill before us today. I would like to thank the previous two speakers for their contribution and for supporting this bill.

Feedback during the consultation phase strongly identified gaps or ambiguities in the current regulations as a major problem for all involved with bodies corporate. The regulations are largely silent or

ambiguous on important issues including the rights, roles and responsibilities of key players such as managers, developers and committee members on how to resolve disputes, what records must be kept and who has access to them. Many of the extra provisions in the bill before us today remove ambiguity surrounding these matters and clarify the position for lot owners. Without clear guidance in these areas, it is more likely that disputes will occur which would need legal action to be resolved.

Much of the extra regulation is enabling, empowering owners corporations to take action regarding things such as establishing a committee or a maintenance fund and taking part in the dispute resolution system rather than telling owners corporations what to do. Owners corporations with less than 13 lots — and that is the vast majority of owners — are not required to form committees, but the bill enables them to do so if they want.

There were calls from some stakeholders for a more prescriptive scheme, in particular in relation to increased penalties. Rather than taking such a heavy-handed, punitive approach, the bill is designed to help those involved in owners corporations to work together and to resolve disputes through dialogue, consultation and negotiation.

The current regime for the regulation of bodies corporate is split between Part 5 of the Subdivision Act 1988 and the Subdivision (Body Corporate) Regulations 2001. The act and original 1989 regulations were made at a time when the average subdivision was about four lots and most bodies corporate were able to be self managed. A former Minister for Consumer Affairs, Mr Lenders, announced a review of the body corporate system in September 2003 and I was appointed to chair that review. The terms of reference were to identify options and strategies to improve the regulation of bodies corporate, in particular to protect body corporate funds and minimise and resolve internal disputes, with the aim of making the experience of living in a body corporate building more equitable and efficient and therefore more attractive.

The review was prompted by the explosion in high-density living in the years since 1988, particularly in more recent years at Docklands and in the central business district, which exposed problems in the current regulatory framework in ensuring a fair and efficient operation of bodies corporate, particularly those managing complex, mixed-use, high-rise developments. Whilst our laws may have been appropriate and effective for smaller blocks of flats, the larger complexes we now see demand a different legislative response, one that takes into account the variety of sizes and shapes we now see. The Victorian body corporate industry continues to grow with the number of bodies corporate increasing by approximately 2000 every year. About 66 000 lots have been created in the last five years. Approximately one million Victorians, or one in four — one in five if you err on the conservative side, but closer to one in four — are involved in a body corporate.

With this growth we also saw the growth in the professional management industry. This growth will not slow. The trend to high-rise living is expected to continue. In 2004 the City of Melbourne advised that there were 230 new residential projects either under construction or proposed in its municipality alone, set to produce over 20 000 new dwellings in the next 5 to 10 years.

In conducting the review the government was concerned to ensure that members of the community had ample opportunity to participate and provide feedback — and that they did. We went through a comprehensive process. An issues paper was published in October 2003. Based on the submissions received, a future directions paper was published in March 2004. Over 200 submissions were received on both the issues paper and the future directions paper. The government also undertook extensive consultation, which I was involved in, with stakeholders such as the Law Institute of Victoria, the Real Estate Institute of Victoria, the City of Melbourne, VicUrban, the Property Council of Australia, the Council on the Ageing, the St Kilda Legal Service, the Macquarie Bank, the Tenants Union of Victoria and of course the Institute of Body Corporate Managers. We also held a range of forums to allow members of the public to provide feedback to the review.

I would like to share with the house a few examples of the types of issues that were raised by stakeholders throughout the review. Stakeholders indicated that most disputes arose as a result of a lack of information, poor communication, poor recordkeeping and an inability to access records. One body corporate resident told us of their discovery that the body corporate had not met for 11 years. They also found that the insurance for the building had not been paid. Many stakeholders raised issues regarding body corporate managers. One stakeholder described how they were going through a number of body corporate managers. It was their perception that this was because managers could not resolve disputes between members, and it was felt that

they were not tough enough. In my dealings with the Institute of Body Corporate Managers, I have found body corporate managers to be a most professional group with a commitment to both their profession and to self-regulation. Another case — and this is an example of the broader experience — was of a body corporate which was a mixed commercial-residential development, where a large chunk of the common property was used to service the commercial part of the development. However, during the process of assigning costs, the residential tenants ended up paying 97 per cent of the costs of maintaining the common property. The residential lot owners quite correctly saw this as unfair.

During the review I could not get over the number of people who were engaged in their owners corporation. Whilst this was good, it was also noticeable that the existing legislation was not as effective as it could be. It was just not clear to these people how to resolve issues. The problems seemed to fester unresolved, which was not a good thing. They felt the legislative structure was neither clear enough nor provided good guidance. The existing legislation offered no effective way to work through the concerns raised, nor was there a simple process to conciliate their issues. People were shuffled off to the court system needlessly, spending too much money, time and energy. There had to be a simpler way, and there is.

The legislation before us today addresses the concerns of the people we consulted with. It clarifies roles as between the body corporate; the committee; the chairman; the secretary; the manager; members, or lot owners; and occupiers, or renters. It will improve transparency and decision making on financial matters. It will improve governance arrangements on matters such as access to information, the need for maintenance plans, meeting processes and record keeping. It will improve dispute resolution, including internal grievance processes and conciliation processes. It makes special provision for larger bodies corporate, for which the risk and therefore the required protection is larger. It will improve communication processes and make lot owners and body corporate managers aware of their rights and responsibilities.

This bill will reform and replace the regulatory scheme for the management of bodies corporate under the Subdivision Act 1988. It renames ‘bodies corporate’ as ‘owners corporations’, which is the phrase used in New South Wales and the Australian Capital Territory. As I have stated, the bill clarifies the roles, responsibilities and powers of the owners corporations, committees of management, managers, and lot owners and occupiers. It will improve protection of owners corporations funds, avenues for dispute resolution and governance arrangements. It will also improve enforcement. For the very first time there will be general principles of conduct which set standards of care and encourage compliance. People involved in owners corporations will be obliged to act honestly and in good faith and to exercise due care and diligence. Professional managers will have to be registered with the Business Licensing Authority. There will be a public register, which will enable lot owners and the public to know about levels of professional indemnity insurance or any orders affecting them. Importantly, Consumer Affairs Victoria (CAV) will now have an up-to-date list with which to inform managers about changes to legislation and regulation.

The bill institutes a three-tier dispute resolution system similar to that which was instituted in the Retirement Villages Bill that came before this house last year. The first tier is an internal one — a help-yourself model, if you like, with guidance from CAV. The second tier involves the CAV acting as a conciliator and mediator. The third tier is the Victorian Civil and Administrative Tribunal, instead of the Magistrates Court.

Other important aspects of the legislation include information disclosure to potential buyers, which is being improved by the requirement that the owners corporation certificate be attached to the section 32 vendors agreement, thus allowing potential buyers to obtain details of fees and other relevant information before committing. Larger owners corporations will be obliged to develop a maintenance plan and financial statements in accordance with prescribed standards and auditing and also obtain a five-year valuation of common property for insurance purposes. Maintenance funds will have to be kept in separate accounts. Meeting processes, record-keeping requirements and access to owners corporations records, and the capacity to enforce rules are all set out in this bill. There will be an extensive public information campaign, which has already been alluded to by Mr Drum, to educate ordinary members of owners corporations about crucial aspects of the day-to-day operations of owners corporations, such as meeting procedures, the role and responsibility of committees and the purpose and operations of maintenance plans and maintenance funds.

While key aspects of these matters are clearly provided for in the legislation, there is space for guidelines or further rules. In particular, the bill provides that the procedure at general and committee meetings will be at the discretion of the owners corporation and will allow the owners corporation to determine what a maintenance plan or the agenda for an annual general

meeting may contain beyond the core of mandatory items, or what conditions it may set on paying money out of the maintenance fund.

The bill creates a category of prescribed or larger owners corporations, which will be subject to higher standards of financial planning and reporting — size does matter. Extra regulation will apply to larger owners corporations, such as requiring the preparation of maintenance plans and funds, obtaining regular valuations for insurance purposes, and getting financial statements audited. High financial and asset management standards are appropriate in this case because of the extra financial contributions imposed on lot owners and the need to safeguard a much larger pool of funds.

The threshold for prescribed owners corporations will be set out in the regulations, which will be drafted after the bill is enacted and will go out for separate public consultation as part of the regulatory impact statement process. I hope that will allay Ms Lovell's fears. One possible option is for owners corporations with annual fees over $200 000 to be prescribed, as is the case for incorporated associations — we will have to wait and see.

This is excellent legislation that is the result of exhaustive consultation — and I can attest to that. It will create the right balance between protecting people's rights and regulation. With this legislation the Bracks government is ensuring that communities are good places to live and work, and that rights are protected and disputes minimised. It also ensures that people have access to fair dispute resolution processes that are not cost prohibitive.

Owners corporations regulations affect people's homes. Therefore it is critical to get them right. This legislation delivers the best possible protection for consumers who are members of owners corporations and for other stakeholders. I commend the former Minister for Consumer Affairs, Mr Lenders, and the current minister, Ms Thomson, and the hard work of the public servants at Consumer Affairs Victoria and Justice — some of them here in the advisers box — who have worked tirelessly to bring this legislation to the house today. It has been a long journey. I would also like to thank Julie Van Dort, a former public servant, who has enabled me to learn a lot about owners corporations, or bodies corporate.

We considered the criticisms that came forward and that were discussed in some depth by Ms Lovell. We think we have the balance right with this legislation. I am very proud of the amount of public consultation that we undertook in bringing this legislation before the house today and I commend it to the house.

Hon. RICHARD DALLA-RIVA (East Yarra) — I rise to also make a contribution on behalf of the Liberal Party. I thank the last speaker for her contribution, which was an in-depth speech with some level of passion, which is always refreshing and certainly so from the other side.

I will speak very briefly on this. I want to get on the record a couple of issues and concerns that have been put to me and maybe get some clarification from the ministers or their advisers as to what the process under the new legislation will be. I was not proposing that we go into committee to resolve this, and I raise it now because I have had a direct application by a constituent, Mrs Pat Hickey, who has a residence in Kew and is prepared to have her name put on the record. I was seeking some clarification when I was going through the bill. In this particular case, Mrs Hickey owns one of the four properties in a set of flats. Her property is a 12-square apartment and there are two other 12-square apartments and one 24-square apartment in the one block. Currently they all sit within what will now be the owners corporation but previously was the body corporate.

The issue that has arisen is that Mrs Hickey is concerned that the annual insurance bill has come through. Each of the owners pays 25 per cent of the amount payable, although, as I indicated, one of the apartments is double the size of the other three. I understand that the legislation, which I have been through a couple of times to try to get some clarification, provides that the owners corporation must meet. They have done so, and three of the four owners, Mrs Hickey being one of them, have voted to continue with the status quo.

I have indicated that we need to look for some way of being fair and equitable. Is there advice that Mrs Hickey can take, maybe by going to an internal disputes resolution process in the first tier and, if not, in the second tier? The only reason I raise it is that I am trying to help Mrs Hickey, as I am sure the government would like to, as she is 84 years of age. I guess I have put enough on the record to try to get some clarification on where the legislation provides for me to be able to give her guidance. This is like an adjournment debate matter, but I did not want to raise it then. I think it is important, given that we will have new legislation and we do need to help people like this particular elderly lady.

Other than that, the legislation is moving in the right direction. It is about giving some clarity. I hope that people like Mrs Hickey, who could not get clarity under the old bodies corporate law, will be able to get some guidance under the new owners corporations law. I am sure that there is some way that this can be worked out. If not, Mrs Hickey will accept that, as she understands that there are processes. I am happy to leave with the minister a letter that outlines some of the details that might give further clarity to the matter. Other than that, the Liberal Party does not oppose the bill and I look forward to it having a speedy passage.

Hon. ANDREA COOTE (Monash) — The Liberal Party will not be opposing the bill, basically because it is an improvement on the current legislation. The purpose of the bill is to create a legal framework for the governance of bodies corporate, which will now be known as owners corporations. It provides management powers and functions of owners corporations and for the resolution of disputes relating to owners corporations. It also amends the Subdivision Act 1988, in particular relating to the creation of owners corporations, and it makes a number of minor amendments to other acts. It is the result of a review of the body corporate law in Victoria.

I would like to put on the record my admiration for the work that Mrs Buckingham did on this particular bill and to say that she will be a great loss to this place. I have enjoyed working with her and indeed I consider this a fine way for her to end her parliamentary career in this place. It is a testament to the work and professionalism that she has brought to this house. I commend her for her work on this bill and the work that she has done while she has been in this place. We will miss her.

It is very interesting to consider my own electorate of Monash Province, which covers the Legislative Assembly seats of Prahran, Albert Park, Caulfield and Malvern. Going back into the past, the areas of Elwood, Prahran and St Kilda had some of the earliest small apartment blocks in this state. Those very first old blocks had bodies corporate, as do the new high-rise developments along St Kilda Road and at Docklands and Beacon Cove. It is important to realise that the legislation has to cater for all the different accommodation styles, from the blocks with just one or two apartments right through to the huge high-rise developments at Beacon Cove and along St Kilda Road.

As with much of the Bracks government's legislation, this bill does not go far enough. It is an attempt to get it right and certainly an enormous amount of work has been done to get it to this stage and, yes, it is better than what was there before. But, sadly, it could have gone so much further. Much of the detail in the bill could have been tidied up. This is a pattern that we are starting to see with this government. We have coming in here a degree of sloppy legislation — legislation that is half baked, that is not quite good enough but almost good enough. This is another example of just that type of legislation.

In relation to the new high-rise developments that are booming, questions must be asked of the government. Is the boom in the high-rise developments being monitored? What will be the pressures and challenges for owners corporations and people who will live in these high-rise buildings? The government has not put enough vision into the bill, which is a great pity because it is a missed opportunity.

Some major issues should be scrutinised with regard to this bill. I put on the record my particular thanks to Justin Lethlean, a partner at Middletons. He has great expertise in this area, and I thank him for his advice. In addition, I put on the record my thanks to Julie Van Dort from Coadys lawyers, who was formerly the body corporate guru in the office of the minister formerly responsible for Consumer Affairs Victoria, Mr Lenders. She is certainly a recognised authority in the field, and a great and true professional.

This bill will not go through a committee process, but I will draw attention to certain clauses. It is important to get my concerns about them onto the record. The first one I want to mention is clause 166. This empowers the Victorian Civil and Administrative Tribunal (VCAT) to make an order imposing a single penalty not exceeding $250, if it determines that a person has failed to comply with the owners corporation rules. A $250 penalty is not a great deterrent for some owners. Some of the apartments in my electorate are worth millions of dollars, so $250 will not be a great deterrent. The bill should have taken this further — the penalty could have been larger or VCAT could have had a greater power to determine the penalty.

Clause 173 enables an owners corporation, a lot owner, a creditor of an owners corporation or any person with an interest in land affected by an owners corporation to apply to VCAT for the appointment of an administrator. This power is too broad and will lead to the clogging up of VCAT. We already know of the huge problems with VCAT, but this will add to the problems. Vexatious and unreasonable applications will clog the VCAT system even further — for example, a vexatious lot owner might take it upon themselves to seek the appointment of an administrator over a petty

amount of money, let us say $100. It could lead to a VCAT hearing under this clause.

The clause needs to be rewritten to specify a predetermined amount of money. As it is it has the potential to clog up a very slow system and make it worse. This is an example of what I was saying before — that this bill could have tidied up a lot of anomalies. I suggest they go back to the drawing board on this clause.

Regarding part 12, I understand it is important to register managers, many of whom are responsible for huge amounts of money. However, it would have been better if the minister had taken the time to stipulate more rigorous qualifications and conditions for potential managers, especially in this day and age, when corporate governance is required at all levels of corporate life. Some of this rigour should be reflected here.

Examples of additional requirements could include ongoing training in financial management and the acquisition of an ongoing understanding of what will be the Owners Corporations Act. A potential manager could have to go through a program so that they understand the details of the act. Perhaps they should be required to have police checks. Under this government grandparents are required to have police checks if they want to employ their grandchildren on a farm. Yet we are dealing in this bill with managers who will potentially be involved with millions of dollars, but we are not being vigilant about it. This issue should perhaps have been at least acknowledged in this bill. Some level of management expertise should also be expected.

Clause 211 amends the Subdivision Act. I refer to proposed new section 34 and will quote Justin Lethlean, because he clarifies it far better than I could. He says:

> This clause requires a unanimous resolution of the members and owners corporation in the event that lot entitlement and lot liability are to be altered. It is highly unlikely that this would occur where one lot owner may be having their lot liability increased. I would have thought a special resolution would be more appropriate or where all but one member of the owners corporation votes in favour of an amendment to lot entitlement and lot liability, an application to VCAT could be brought for determination.

That is from the point of view of a lawyer who is looking at the practicality and workings of this bill. I encourage the minister to have a closer look at this and get the bureaucrats to revisit this clause and see what can be done to make it a lot easier. I believe the intent of this bill was right. The intent was to get it right, and if the government really wants to make this a better bill, it will take up some of my recommendations.

I have some general concerns about the bill, one of which concerns the provisions regarding annual general meetings (AGMs). At an inaugural AGM it is more than likely that the developer will own all the apartment lots, or at least a large proportion of them. The bill provides for lot owners to receive notices of the AGM, an agenda and other relevant information. Given the developer usually owns all the apartment lots at the first AGM, this would mean that developers have to give notice to themselves. This is ridiculous and cumbersome. The government should have been more vigilant and taken some time to get this right. It is sloppy legislation drafting, which is a hallmark of this government, as I have said before.

The bill should therefore have had a section dealing with the first AGM where the developer has control of the body corporate and a separate section for all other AGMs. This would have clarified the issue, and made certain that everybody knows what they are talking about. It would decrease the cumbersome and ridiculous nature of this provision of the bill.

The bill will also increase the cost of compliance, particularly for smaller owner corporations. If there had been a better look at the detail and red tape, this might not have occurred. Very importantly another concern regards the fact that the bill is not to come into effect until 31 December 2007 or by gazettal. No consideration has been given to contracts of sale that are current now and do not settle until after the commencement date — that is, off-the-plan sales. These contracts comply with the law as it now stands. Should these change to make them comply with the law as it will be on 1 January 2008? This is where it would have been good to go into a committee stage to tease out the issue and get it clear for everyone.

The reason this is of concern is that under the new law developers have a duty to act in the best interests of the owners corporation, but currently they do not. Many lawyers draft existing contracts where the developer retains a long-term lease of the common property roof which they can lease for income to advertisers or telecommunication companies. In views I sought the concern was that this will not be possible in the future as the income should go to the body corporate if the developer is complying with its obligation to act in the best interests of the body corporate. The act should deal with this by confirming that contracts of sale entered into prior to the commencement of the act need only comply with the current law. This will avoid uncertainty. I suggest that be clarified.

Another concern is about tenants versus lot owners of an apartment building. As the bill stands, an effective tenants union will have more power than lot owners, particularly if the majority of the lots are owned by the developer and the developer therefore has a block of voting rights. Often tenants will have a greater opportunity and greater power than will the lot owners.

I have spoken about managers, but I would like to put on the record that if a manager takes off with money, will not give up money or is just a vehicle for a developer, the only way a body corporate can have recourse is to report directly to the director of Consumer Affairs Victoria for action. The red tape and delays will be monumental for the director and will involve them in huge amounts of time and effort. It will be cumbersome. This is evidence of the cumbersome nature of many of the provisions of the bill.

The bill is another wasted opportunity. The government should have taken the time to get it right. I believe that if the bill had been brought into this place by the Minister for Finance, who was the Minister for Consumer Affairs, those details would have been attended to. The Minister for Consumer Affairs, Minister Thomson, has presided over this bill, which lacks the detail, clarity and practicality that I have indicated. I suggest that the minister have a close look at what the opposition has brought up in the debate and take the opportunity to get it right. I believe her direction and the thrust of this bill are in the best interests of all owners corporations. I certainly believe, as do my Liberal colleagues, that this will provide a far better situation than what currently exists. I would like the minister to take more time to get it right in the future.

Hon. M. R. THOMSON (Minister for Consumer Affairs) — I just want to say a few words in wrapping up the debate. First I express my appreciation to Mrs Buckingham. She has done an outstanding job, not just in consultations but in sitting down and talking with me personally and others about some of the complexities of the issues that are apparent with this bill.

At the outset I will say that this is very complex legislation, and it is very complex for a number of reasons. Originally bodies corporate started off as bodies run by the owners. It is a much changed environment that we now live in, and it will continue to be so. This legislation tries to deal with each of the complexities in a reasonable way. One of the requirements was to try to make clear what the responsibility is of the owners in an owners corporation and what the responsibility is of the managers, and that will become even clearer as we go through the setting of the regulatory framework around the legislation.

The legislation is complex but it will make things clearer. Most of the disputes that have occurred in the smaller owners corporations have occurred because there has been uncertainty about who is responsible for what. When people take on committee work, they take on responsibility. That is part and parcel of becoming a member of a committee. As a consequence they do have obligations to the body corporate, or in this case to the owners corporation. The legislation will give time for the mounting of an educative campaign amongst those who serve on committees so they can fully understand what their obligations and responsibilities are.

The bill makes managers more answerable. Where there are professional managers of owners corporations they will be more responsible and will have more to adhere to in their bookkeeping responsibilities, and Consumer Affairs Victoria will be able to monitor and assess the way the industry is dealing with its responsibilities.

This is important legislation. It is very complex. I have not heard what the opposition's position is on any of this. What I have heard is the raising of objections and difficulties that certain associations have had with aspects. We heard them all in the consultations, and we have discussed them ad nauseam. What we think we have done is come up with a fair and reasonable balance. No doubt there will be more finetuning as we deal with regulations, but we have dealt with this as fairly as we possibly could, given the complexity of not putting too much of a regulatory burden upon people but building in responsibility. This is the balance that we have struck.

The Honourable Richard Dalla-Riva raised an issue a constituent had with lot liability. Whilst I do not know that I have a quick answer, we will consider the letter he has given to us. There are new dispute resolution mechanisms in place in the legislation. There are new arrangements in relation to responsibilities for the allocation of liability based on the value of property, the value of lots, and all those sorts of things. All those will apply into the future. But we will look at this individual case in detail and get back to the constituent directly on it.

I thank all honourable members for their contributions to the bill and for the efficiency with which this bill will pass through the house. I finish by saying that this is the culmination of a lot of years of work. I thank my predecessor, Mr Lenders; Mrs Buckingham, who has

been absolutely marvellous and outstanding in the way she has dealt with the issues coming through the consultations; and the officers at Consumer Affairs Victoria, who have had to live with this piece of legislation for now two years.

Motion agreed to.

Read second time.

Remaining stages

Passed remaining stages.

Sitting suspended 1.06 p.m. until 2.12 p.m.

Business interrupted pursuant to sessional orders.

QUESTIONS WITHOUT NOTICE

Government: advertising

Hon. PHILIP DAVIS (Gippsland) — Deputy President, what a delight to see you here today. I direct my question to the Minister for Finance. I refer to the Auditor-General's report on government advertising released today and the minister's responsibilities for the administration of tendering and procurement practices in this state's public sector. The Auditor-General concluded that the eight Labor advertising campaigns examined:

> … did not comply with the procurement requirements of the relevant departments …

When will the minister stop the use by the Labor Party of distorted government advertising and procurement practices for its own political purposes?

Mr LENDERS (Minister for Finance) — I welcome the Auditor-General's report. One of the strengths of the Bracks government has been — —

Mr Viney interjected.

Mr LENDERS — Exactly, Mr Viney. We inherited an environment where the Auditor-General was nobbled and the former Premier's prefect, Mr Forwood, who presided over the Public Accounts and Estimates Committee as the Parliamentary Secretary to the Premier, Jackboot Jeff — I mean, Mr Kennett. I withdraw.

Hon. Philip Davis — On a point of order, Deputy President, I ask you to bring the minister to order and seek that he desist from his barrage against a member of this place and refer him to the fact that the obligation of a minister at question time is to actually answer the question and not to attack members of the previous government or members of the opposition.

The DEPUTY PRESIDENT — Order! The minister has 4 minutes to answer a question. The minister has just begun to give his answer, and I ask him to move on to the question. He has some time yet to answer the Leader of the Opposition's question.

Mr LENDERS — As I was saying, the context of the Auditor-General's report and why we so welcome the Auditor-General's report, which directly answers the Leader of the Opposition's question — I need to paint the context of this — is that the checks and balances enshrined not just in the constitution, not just in the Audit Act, but in the change of behaviour brought about by the Bracks government to governance in the state of Victoria has put a series of checks and balances in place.

One of those is the power of the Auditor-General to fearlessly and without favour bring forward reports that comment on government administration. I congratulate the Auditor-General on doing so.

Hon. Bill Forwood — Don't you think Ches did that?

Mr LENDERS — It is interesting — I take up Mr Forwood's interjection, 'Don't you think Ches did that?'. Yes, Mr Baragwanath did that, and because he did that the Kennett government took to him with a meat axe and put the agent of the Premier, the Parliamentary Secretary to the Premier, in the chair of the Public Accounts and Estimates Committee. The Kennett government got away with that until the voters of Mitcham sent the message loud and clear that that was not accountable, fair or transparent; and then the voters of the entire state of Victoria got the boot in as well on 18 September 1999.

The Leader of the Opposition asked about advertising. He asked about my role as finance minister and I am delighted to talk about it. Firstly, on advertising let us get the context absolutely right. The last Auditor-General's report into advertising was done in 1996, if I recall correctly. I can check my notes. If you go back to 1996, when Mr Forwood started his mission as the Premier's prefect to keep the Auditor-General and his committee under control, and look at what government advertising was in the state of Victoria at that time, you see a figure of about $130 million, if I recall correctly — and I will again refer to my notes. Ten years later we see a figure that is less than that when you take into account advertising, and given the rantings of Mr Dalla-Riva and others opposite who say

government has grown so much, as a percentage of government it is even less.

The Leader of the Opposition talks about political advertising. I ask the Leader of the Opposition: what is political about a safety message through the Transport Accident Commission? What is political about a safety message for WorkCover? What is political about advertising — —

Honourable members interjecting.

The DEPUTY PRESIDENT — Order! Mr Forwood will allow the minister to answer the question.

Mr LENDERS — What is political about advertising for nurses? Perhaps the opposition does not like the fact that we have put 7000 more nurses in public hospitals. What is political about advertising for police, except perhaps the opposition does not like the fact that the community sees us putting 1000 more police on the street?

It is worth noting from the Auditor-General's report itself, and I quote the Auditor-General's words:

> It is appropriate for government to inform the public of new, existing or proposed government policies or policy revisions; to provide information on government programs or services … to which the public are entitled to access; to inform the public of their rights, entitlements or obligations under the law; to inform the public that the state is a good place to live, study, work, or invest; and influence social behaviour, in the public interest.

He did not say it is a good place to live, work and raise a family, but he came very close. In response to the Leader of the Opposition's comment, we will look at the report, we will analyse the report and we will respond to the report. We welcome the report of the Auditor-General.

Supplementary question

Hon. PHILIP DAVIS (Gippsland) — I thank the Minister for Finance for his extensive response to my question. Under Labor's procurement practices, the state brand, and I quote from the report:

> … has become the brand for the incumbent government, rather than for the state.

Is the minister going to implement the Auditor-General's better practice criteria for government-funded publicity activities or is he going to ignore it totally and continue to smear Victoria's brand with Labor's brand?

Mr LENDERS (Minister for Finance) — I am clearly confused. I thought we were talking about the 2006 Auditor-General's report, not the 1996 Auditor-General's report talking about 'Victoria — on the move', which was a Liberal Party slogan that became a state slogan. What the Auditor-General is doing is correctly informing the government of how it can better deal with these issues, and the government will respond.

The Auditor-General has commented positively on a number of things the government has done. He has also highlighted a few technical areas. Nowhere in his report does he say there is anything fundamentally out of order. I am sure Mr Forwood has read the report. I have read most of it. I assure the house that I spent a lot of time on it today. The Auditor-General refers to technical issues. He does not refer to anything fundamental, but we will go through the report line by line, item by item and respond to it. We welcome the Auditor-General's report as part of an open, transparent and accountable government.

Commonwealth Games: financial reporting

Hon. H. E. BUCKINGHAM (Koonung) — My question is to the Minister for Commonwealth Games, the Honourable Justin Madden. Can the minister outline to the house the details of the Melbourne 2006 Commonwealth Games special purpose report, which identifies net operating resources by the Victorian government and, in particular, the Office of Commonwealth Games Coordination?

Hon. J. M. MADDEN (Minister for Commonwealth Games) — I thank the member for her particular interest in the Commonwealth Games and her contribution, as I thank other members of Parliament for their contribution, to the best ever Commonwealth Games. No matter how you slice it and dice it, today is good news day when it comes to the Commonwealth Games. Not only were the Melbourne 2006 Commonwealth Games simply the best, they were delivered $50.1 million under budget. Let me say that again: the largest event in Victoria's history delivered by the Bracks Labor government was delivered on time, was hailed as the best ever and was delivered $50.1 million under budget. This is not just another government report. As we promised, we have delivered well before the election a fully transparent and comprehensive special purpose financial report on the 2006 Commonwealth Games. Not only that, but the Auditor-General has independently examined the report, so it has been verified by the Auditor-General.

Hon. Bill Forwood — Just check the adding up.

Hon. J. M. MADDEN — Mr Forwood might want to disclaim this, but I can assure him that the Auditor-General has left no stone unturned in examining all costs associated with the 2006 Commonwealth Games. There are a lot of people we would like to thank. First and foremost we thank the people of Victoria — the millions of people who attended the games.

Hon. B. N. Atkinson interjected.

Hon. J. M. MADDEN — What is it about the Commonwealth Games you do not like? Millions of Victorians attended the games. They participated in and enjoyed the cultural festival, they packed the Melbourne Cricket Ground, they lined the Yarra River for the opening ceremony and they watched and enjoyed those wonderful fish. Victorians who participated in and watched the Queen's baton relay when it passed through every municipality probably got great support because there were no politicians involved. Victorians volunteered not only as games volunteers but with St John Ambulance, the State Emergency Service, the Country Fire Authority and elsewhere. They helped us deliver the best ever Commonwealth Games. Children and other young Victorians learned about and joined in the spirit of the games because we as a state were united by the moment.

But those 12 emotion-filled days of sport, culture and celebration did not just happen. Today it is important to recognise the enormous contribution of the men and women who worked tirelessly to deliver the games. I would like to thank in particular the man who gave us so much of his time, skill and energy. I speak of course the chairman of Melbourne 2006, Ron Walker. The board of 2006, as expected, resigned today as those figures were released. I also pay tribute to John Harnden and his team at the World Trade Centre, and Meredith Sussex, director of the Office of Commonwealth Games Coordination, and her team. It was no easy task, but we know that it will be recognised as being a time in Victoria's history when we were all united by the moment.

Government: financial reporting

Hon. BILL FORWOOD (Templestowe) — I direct my question without notice to the Minister for Finance, Mr Lenders. The unanimous Public Accounts and Estimates Committee estimates report tabled today contains on page 436 a quote from a letter dated 15 December 2005 sent by the chair of the Victorian Government Purchasing Board to the Secretary of the Department of Human Services. The issue is the iSoft tender. The letter, talking about the probity auditor, says that he:

> … did not serve the department or the complainant well.

Since this letter was written, has the minister or the Victorian Government Purchasing Board taken this matter up with the probity auditor and, if so, with what result?

Mr LENDERS (Minister for Finance) — I welcome Mr Forwood's question and his ongoing interest in these matters. While we are quoting Auditor-General's reports or Public Accounts and Estimates Committee reports to each other, I draw Mr Forwood's attention to what the Auditor-General said in his statement on reports on public sector agencies in August 2004:

> A strength noted in the current procurement environment are the requirements of the Victorian Government Purchasing Board —

which were found to be —

> … highly effective.

Hon. Bill Forwood — What has happened in the last two years?

Mr LENDERS — Mr Forwood is very keen to get information, and we as a government are delighted to comply quickly. Unlike the government in which he was the Premier's prefect looking after these matters, what we have done as a government is not appoint a Premier's prefect but have a team of very busy monitors, to use the school analogy, out there getting information.

Hon. Bill Forwood — One Labor member signed that.

Mr LENDERS — I cannot help but take up Mr Forwood's comment. He waved around a report of the Public Accounts and Estimates Committee and said, 'A government member signed it', as if it were some horror. One would hope that in the Parliament of Victoria we would have an independent Public Accounts and Estimates Committee — five members of this house, including Mr Forwood, are members of the committee — which would frankly and fearlessly give advice to government. Sometimes that advice is not the most welcome advice, because it holds government to account, but as an accountable government we receive it. In the environment where Mr Forwood was the Premier's prefect — let us get it right! — the government members of the committee would never in a pink fit have dreamed of putting in a report contradicting or being critical of the government,

because they were the trained goosesteppers of the Premier.

Hon. Bill Forwood interjected.

The DEPUTY PRESIDENT — Order! The member has asked the minister a question. The minister may not be answering it in a way the member wants him to, but it is incumbent on the member to show respect to the minister and hear the minister's answer without screaming across the chamber.

Hon. Bill Forwood — On a point of order, Deputy President — —

The DEPUTY PRESIDENT — Order! I ask Mr Forwood to sit down. As the member asking the question, if there is comment in the minister's answer you are unhappy with, you have the opportunity to ask a supplementary question on a matter related to your first question. I ask you and other members of the house to quieten down and have some respect for Hansard and other members of the chamber and allow ministers to answer the questions you have asked.

Hon. Bill Forwood — On a point of order, Deputy President, I ask the minister to withdraw the words that I was goosestepping to the previous Premier.

Mr LENDERS — I withdraw.

In general terms I want to make some more points specifically about what Mr Forwood said. The first point is that we are not shocked that a committee of members actually makes comment on government — that is what Parliament is about, to be open, transparent and accountable. The second point is that I and 19 other ministers each year face the Public Accounts and Estimates Committee for 3 hours of grilling by that committee. That is something the Kennett government never did. It gives us more transparency and accountability. The third point is that the notice paper today shows it is day 183 of the Legislative Council sittings. If I recall correctly, when I was elected to Parliament in 1999 the Parliament had 17 sitting days that year and had not sat for about 8 months.

On the specifics that Mr Forwood raises on the iSoft account, which again is one the Minister for Health in the other place is responsible for, in general terms I will take up for him the area of accountability. There are a couple of things to note. The Victorian Government Purchasing Board (VGPB) did engage legal service for the investigation of a tender complaint which was subsequently resolved. The investigation determined three breaches of supply policies which had no effect on the outcome of the tender. This will be recorded in the annual report. That is what I have committed to and that is what will happen — those things will be reported.

For the record, and on how we generally do on this, in the 2004–05 report, 6 per cent of the total number of requisition approvals and 0.6 per cent of the total value of requisition approvals were actually reported on. There is a report each year on how these things are happening. Mr Forwood raises one and uses it as an example, but crikey, it has been in this chamber, before the VGPB, at the Public Accounts and Estimates Committee and he is raising it again today. There is scrutiny. The Auditor-General has the capacity to report on it, the audit committee of the Department of Human Services has the chance to report on it and I am answering Mr Forwood in Parliament, which is sitting and is not locked away in cotton wool like it was during the Kennett years.

We are accountable. I am standing here and answering the question. Even though it directly relates to the Minister for Health, I can talk in general terms about it. Mr Forwood has the opportunity as a member of the Public Accounts and Estimates Committee to ask that question whenever he chooses, which he has done — and good on him!

Supplementary question

Hon. BILL FORWOOD (Templestowe) — I thank the minister. Let me just point out that the Victorian Government Purchasing Board said that the probity auditor:

> … did not serve the department or the complainant well.

One would have thought that in those circumstances, seeing that the probity auditor is the probity auditor for a lot of other government projects, in the interests of accountability the Victorian Government Purchasing Board might have followed it up with the probity auditor. The minister did not answer that question, and I know why: it is because he has not. I ask the minister: does he believe that when the Victorian Government Purchasing Board makes such a finding it should inform the person about whom the finding has been made?

Mr LENDERS (Minister for Finance) — Mr Forwood knows, but I will repeat it for his benefit in case he has forgotten, that we have moved from a model of the dead hand of a central public works department to a model where accredited purchasing units, departments and agencies are responsible for procurement. They operate under the guidelines and policies of the Victorian Government Purchasing

Board. When things do not work, the board varies and changes policy; it offers advice and provides training courses for purchasing officers in departments. Mr Forwood will get a bruised forehead if he beats his head against the pillar any longer or any harder. It is an occupational health and safety issue, and I am the Minister for WorkCover and the TAC as well as finance at the moment.

There is a regime in which we report instances which are not working. The board has the discretion to recommend various practices to me as minister. We have devolved. We believe in the philosophy of departments being responsible for their actions, but we are responsible for policy. We have a more transparent system — —

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

Commonwealth Games: financial reporting

Hon. S. M. NGUYEN (Melbourne West) — My question is to the Minister for Commonwealth Games. Can the minister highlight to the house the financial position of the Melbourne 2006 Corporation, and further, whether there is a dividend for the people of Victoria arising from the efficient management of the Commonwealth Games?

Hon. J. M. MADDEN (Minister for Commonwealth Games) — I welcome the member's interest in the Commonwealth Games and particularly the support from his region throughout the games. I have already outlined the stunning result of the 2006 Commonwealth Games that has been signed off by the Auditor-General. I am very pleased to go into a bit more detail on the specifics of the organisations involved in the delivery of the games.

As I indicated in the previous answer, the 2006 Commonwealth Games were delivered $50.1 million under budget. I can reveal to the house today that this figure is made up of two particularly outstanding figures. The Office of Commonwealth Games Coordination, known as OCGC, has delivered a result of $24.4 million under budget — that is an amazing result.

Hon. Bill Forwood interjected.

Hon. J. M. MADDEN — I will say it again — $24.2 million under budget. I say to Mr Forwood, it is an amazing result. The savings have arisen through good management, thorough planning and sublime coordination. Meredith Sussex and her M2006 team and the men and women right across government strived to make these games a success — and they certainly were a success.

Hon. B. N. Atkinson interjected.

Hon. J. M. MADDEN — There is also another outstanding result that Mr Atkinson would be interested in, and I speak of course of the M2006 Commonwealth Games Corporation, led by chairman, Ron Walker, his board and John Harnden, its chief executive officer.

The Melbourne 2006 Corporation not only left us with memories of the best ever games, but it did so by delivering the games $25.9 million under budget — as I said before, an outstanding result. It is another example of a highly efficient and skilled organisation that paid the necessary attention to detail and showed a financial competence which is unparalleled in major events management. It is also testimony to the wonderful support of Victorians who attended the games and delivered outstanding ticket sales. It also shows the great support from corporate Australia, in particular Victoria, which saw the value of participating in these games.

It is also worth appreciating that the security budget — although I was not directly responsible for that because, as members would appreciate, we took advice from the relevant security agencies and it is outside the $50.1 million — was delivered $28.8 million under budget. Hence, there has been spectacular management and savings.

I complimented him earlier but I want to compliment again the chairman, Ron Walker, for his patience, his humour, his corporate knowledge and of course his unflagging energy. The games would not have been the same without him.

This result has special significance, and I refer to the 2006–07 budget and to page 105 of budget paper 2 — and Mr Rich-Phillips would be across this of course — where halfway down the page we read that:

> … any remaining M2006 Corporation surplus resulting from the games, after discharging all financial commitments and other obligations, is to be transferred to the association —

meaning the Commonwealth Games Association —

> This surplus is, in turn, required to be paid to the state to be used for the benefit of sport …

That has been agreed to, so the M2006 surplus will be returned to sport in Victoria. This is a win-win situation for everybody across the state, except for Mr Forwood and the opposition.

I also take this opportunity to thank my ministerial staff, past and present, who delivered an outstanding performance, supported their minister and delivered the best ever Commonwealth Games.

Hazardous waste: Nowingi

Hon. B. W. BISHOP (North Western) — My question without notice is directed to the Minister for Major Projects, Mr Lenders. The public response to the minister's recent media comments on his proposal to site a toxic waste dump in the Mallee is one of disbelief. Obviously the minister has not listened to people's fears and in fact indicated that it is a done deal. Therefore I ask, as a show of good faith, will the minister address a public meeting in Mildura to clearly state his position prior to the election?

Mr LENDERS (Minister for Major Projects) — I thank Mr Bishop for his question. I assume he is referring to my comments on ABC radio in Mildura, last Friday I think it was, and I am surprised that there was any ambiguity. Perhaps Mr Bishop misunderstood my comments, and if he did I would be happy to send him a transcript of what was said.

When I was interviewed about the long-term containment facility proposed for Nowingi — the only people who call it a toxic dump are Mr David Davis and other uniformed people — the presenter asked me a number of very serious questions, and I was very conscious of how I answered them. As the Minister for Major Projects I am the proponent of the site. We have gone through the 30 recommendations of the Coleman report, and yesterday we heard the Leader of the Opposition praising Mr Coleman, a minister in a former coalition government, who chaired that committee.

We went forward from there. We found the site, and I, as the proponent, have been arguing the case for it in front of an independent panel, so I do not resile from my position. A case has been put forward which I think answers the questions that were raised. Unlike the Kennett government, I am not the judge, jury and executioner. I am the person who is proposing before an independent panel the case as to why it is important to build a world-class facility in a location in Victoria where it is safe to store waste — the safest location that can be found — and then where we store the 89 000 tonnes of category B waste that at the moment will go into landfill.

I know that members opposite quite like the idea of landfill, and in Baillieu Land, where money grows on tall trees, you have different answers for different people wherever you are in the state and whatever day it is. You have Mr David Davis saying one thing in Tullamarine or Lyndhurst and another thing at Dutson Downs, or you have Ms Lovell saying different things depending on which part of an electorate she is talking to. You have people pretending there is category B waste and you can wave a magic wand and it will all go away. No-one else on the planet has found such a magic wand. But in Baillieu Land, where money grows on trees and you say different things to different people, there might be answers to this problem.

I said on radio when I was in Mildura, and I thought quite clearly, that this was the case. I said I was the proponent. I explained why we were doing it, why we had 24 reports, why we had 9 supplementary reports and why we had 56 days of hearings before an expert panel. It took 56 days — —

Hon. B. N. Atkinson interjected.

Mr LENDERS — Mr Atkinson might scoff, but we were responsive to people like his colleague Mr David Davis, who was the 1761st person in the queue to actually put in an environment effects statement submission. We extended the time and requested the panel to extend the time — at least the Minister for Planning in the other place did. That was the case I put to the people of Sunraysia.

I went to Mildura with Mr Bishop and, as he knows, there was a large group of people there to greet me. I went to the site — and we have already discussed how Mr Peter Crisp and his vocal supporters were bellowing away and scaring the poor emu-wren. We also know he held a number of public meetings, and I have complimented Mr Bishop on that before. I have had Mr Russell Savage, the member for Mildura in the other place, chewing on my ear for four years about this. Russell Savage has been hammering us over this, so we know what the people of Sunraysia think. There is a panel report coming out, and I urge Mr Bishop to read the report when it comes through.

Supplementary question

Hon. B. W. BISHOP (North Western) — It is true that the Minister for Major Projects came to Mildura. However, those meetings were closed meetings and entry was available by invitation only, so I ask: why is the minister not prepared to be open and accountable and to debate the issue with the wider community?

Mr LENDERS (Minister for Major Projects) — Mr Bishop has an interesting view of a closed meeting. If I recall correctly, we had a meeting that he was not invited to, and he turned up. We were most delighted for Mr Bishop to participate. He made a very

constructive contribution to the meeting, I give full tribute to Mr Bishop for that, and I probably avoided a bruise or two because he was there. We had meetings right through the town, and at every meeting we met and spoke with people — —

Hon. D. McL. Davis — All hand picked!

Mr LENDERS — Mr David Davis says 'hand picked'. I would like to know his version of 'hand picked'. If he were going on a private tour of the Nowingi site and when he arrived there were four semi-trailers, about eight people with megaphones and hundreds of people there greeting him with their arms crossed, it would seem to me to be a strange hand-picked audience. It might have been hand-picked by Mr Bishop or Mr Crisp, but certainly not by me!

We in government will continue the dialogue. We have not on a single occasion turned down an invitation for major projects personnel to go to Sunraysia to address people. Every minister has been up there and I have been there. We have engaged with and will continue to engage with the community as appropriate.

Commonwealth Games: sporting associations

Hon. R. G. MITCHELL (Central Highlands) — My question is to the gold medal Minister for Commonwealth Games. Following the recent release of the Commonwealth Games special purpose financial report, will the minister highlight how state sporting associations will be the first beneficiaries of substantial savings from the Commonwealth Games dividend?

Hon. J. M. MADDEN (Minister for Commonwealth Games) — I thank Mr Mitchell very much for his question. I know how dedicated and committed he is to grassroots sport out in his electorate, and I appreciate his enthusiasm when it comes to the Commonwealth Games.

Honourable members interjecting.

The DEPUTY PRESIDENT — Order! We are accustomed to robust question times and we do have room for apposite interjections, but if it gets to the point where members are interrupting the proceedings of question time and it is becoming impossible for the Chair and for Hansard to hear the minister's answer to a question or to hear someone ask a question, then that has gone too far. I ask members to quieten down and to listen to the answer of the minister.

Hon. J. M. MADDEN — We have a great sporting culture in this state and we have a great love of sport, and that great love of sport comes about very much as a result of the commitment of state sporting associations. Whether it be volunteers, officials or spectators, we have great participation in sport, and that is reflected in our great culture of sport and in particular in our state's sporting associations.

The passion for sport continues throughout the state at a grassroots levels through dedicated volunteers, and record numbers are participating in and playing sport as never before. State sporting associations share a lead role when it comes to developing more active participation in sport in the community.

As part of the dividend I announced today in relation to the Commonwealth Games, as I read from the budget estimates, state sporting associations will be eligible to apply for one-off grants from this dividend as part of a $1.5 million grant program. This funding has come about as a result of the Commonwealth Games dividend. It will be complementary to what the state sporting associations are already doing and what they are already receiving, and we will be encouraging them to develop innovative opportunities to engage communities, to be strategic and to encourage people to participate in more active recreation.

We in government recognise the great contribution of state sporting associations and we recognise their great support in the lead-up to, during and of course after the Commonwealth Games, and we want to continue to encourage them. As a result of this initiative, grassroots sport out there in local communities will be the big winners.

State sporting associations were the principal consultants in the redistribution of sporting equipment after the Commonwealth Games, and here again they will be the big beneficiaries of that dividend by receiving support for grassroots sport across the state. We want to thank them for their input and we want to recognise their ongoing contribution to sporting development in this state. The funding will improve opportunities for those associations to build membership at a grassroots level in sport across Victoria. It will help us to continue to grow and build the social fabric in this state, and it will continue the great work that sport does. The funding reflects the enormity of the contribution of the Commonwealth Games and the feeling of being united in the moment that the games generated, which will be perpetuated in Victoria for generations to come.

Aged care: Ballarat

Ms HADDEN (Ballarat) — My question without notice is directed to the Minister for Aged Care,

Mr Jennings. The minister has regularly informed this house of the government's commitment to promoting the health, fitness and wellbeing of aged senior citizens in our community through various programs and activity groups which play a very important role in engaging the frail, elderly and isolated seniors in our community. How, then, will the minister rectify the recent reduction in home and community care funding to day centre activity programs across the Ballarat health services area?

Mr GAVIN JENNINGS (Minister for Aged Care) — I actually thank the member for her question and for her concern about the wellbeing of older members in the community in her constituency, and I thank her for having the good grace to recognise the determination of the Bracks government to provide quality services and opportunities for older members of the Victorian community, including those in her electorate.

In fact the opposition spokesperson asked me a similar question to this some time ago, and following that question I had a look at the impact of revisions of the new triennial funding rounds that apply to home and community care services throughout Victoria, a component of which the member has made reference to. Indeed there has been some tightening of the availability of transportation services to planned activity groups and day centre activities within the Ballarat area. The member is quite right to indicate that this sub-element of the home and community care program has actually received some degree of tightening in relation to the allocation of transportation costs as a proportion of the total service.

One of the challenges that we in government are trying to address is the way in which we can ensure that people who live in a catchment area outside of Ballarat have access to bus services in particular and other transportation options to enable them to reach some of the activity programs in that area. I can assure the member and her community that I am particularly concerned to ensure that, as much as possible, we operate the home and community care program in an inclusive way which provides a service for those who may feel isolated and vulnerable. We leave no stone unturned in trying to make sure that those transportation arrangements are the best possible and that they are affordable and meet the needs of residents in those communities who want to participate in day centres and planned activity groups.

We are alive to this issue. We are determined to try to provide the best service and to grow the service as much as we possibly can to account for those who may feel some degree of social isolation.

Supplementary question

Ms HADDEN (Ballarat) — I thank the minister for his usual eloquent and informative answer to the very important issue of the health and wellbeing of the aged senior citizens in our community. The current high fuel costs associated with transporting senior citizens living either at home or in nursing homes into day centres within greater Ballarat in order to participate in these important home and community care-funded activity group programs has resulted in the recently announced federal government's liquefied petroleum gas conversion grant of $2000 per motor vehicle. Will the minister now direct his department to match this grant to help the aged access these important day activity programs in Ballarat?

Mr GAVIN JENNINGS (Minister for Aged Care) — Ms Hadden may be a prophet! She must just wait and see. I am particularly concerned with the opportunities for us to reduce transport costs and provide transport options that are meaningful through the home and community care network. The member must wait and see.

Commonwealth Games: demountable housing units

Ms ARGONDIZZO (Templestowe) — My question is addressed to the Minister for Housing. Will the minister provide an update to the house on the social legacy of the best Commonwealth Games ever held, and how the decommissioning of transportable homes from the athletes village will benefit the Victorian community?

Honourable members interjecting.

Ms BROAD (Minister for Housing) — I thank the future member for Doncaster for her question about the social benefits of the Melbourne 2006 Commonwealth Games — and it does not involve parking ships in the Yarra River!

Today we have heard from the Minister for Commonwealth Games about the many benefits of the 2006 Commonwealth Games and the many ways in which the games were simply the best. In addition to the many ways we have already heard about from the minister, I am very pleased to update the house about a number of communities around Victoria that are benefiting from transportable homes which have been relocated from the former Commonwealth Games athletes village. From the outset the Bracks government

was determined to ensure that there was an enduring social benefit from the Melbourne Commonwealth Games, and one of those legacies is the 20 transportable homes that have been trucked from Melbourne to local communities across Victoria.

I am pleased to say that each of these five-star energy units which accommodated 14 athletes during the Commonwealth Games has been reconfigured with a number of different floor plans to provide a range of accommodation options. Recently I was very pleased to visit Robinvale to see one of the three units which have been located there. They will provide four-bedroom family homes in that area. Architects have done a great job in transforming these units into family homes. They will be completed in October, and families will be able to live in these terrific new homes. They are going to make a real difference to the housing supply in Robinvale, an area which was selected because of the need for affordable housing.

I add that we could deliver a lot more affordable housing in places like Robinvale if the Liberal Party in Canberra — with the support of the Victorian opposition if it could deliver a policy on this — could fulfil its responsibility to deliver the funds that have been cut from Victoria's housing program, which amounts to $900 million over the last 11 years. That funding could be providing housing for 6000 families right now if it was not for those Liberal Party cuts. Families living in Bairnsdale, Lake Tyers, Horsham and Colac can also look forward to living in former Commonwealth Games units, and we know it will make a real difference to families in all those towns as well.

As well as being used for housing these units are also being used for community centres. When I visited Moe recently with the member for Narracan in the other place, I was able to see two units which are being brought together to form a new neighbourhood house. It will be a terrific community facility for people in the Moe area. That work is about to get under way, and residents of Moe will have a new neighbourhood house ready for operation next year, which will be terrific. This social legacy of the Melbourne 2006 Commonwealth Games shows that the Bracks government continues to govern for the whole state, and is making Victoria a great place to live, work and raise a family.

Government: advertising

Hon. PHILIP DAVIS (Gippsland) — I direct a further question without notice to the Minister for Finance. I again refer to the Auditor-General's report on government advertising which was released today, and his responsibilities for the administration of financial standards in the state's public sector. The Auditor-General noted that there had been no reports by the master agency media service contractor on the $1.5 million spent on community television, on the spots supposedly purchased or on how the money was applied. When is the minister going to require that information be supplied to show the Auditor-General 'that the monies had been used for the purposes approved'?

Mr LENDERS (Minister for Finance) — This is why I rejoice in having an independent Auditor-General who calls a spade a spade and says it as he sees it and comes forward.

Ms Hadden interjected.

Mr LENDERS — I take up the inane and offensive interjection from Ms Hadden. If she bothered to read the Audit Act or the Constitution Act, or paid the slightest bit of attention to public debate, she would know that the Auditor-General is appointed by recommendation of the Public Accounts and Estimates Committee to the Governor in Council.

Ms Hadden interjected.

The DEPUTY PRESIDENT — Order! It is not acceptable for Ms Hadden to yell and scream across the chamber. I ask her to desist to allow the minister to answer the question asked by Mr Davis.

Mr LENDERS — Thank you, Deputy President.

Hon. Philip Davis — Do not be distracted, Minister. Look at me!

Mr LENDERS — I look at Mr Davis and I am not distracted, but I hear this noise that I feel I need to respond to! This is a legitimate point coming out of an Auditor-General's report, and this government welcomes reports from the Auditor-General. We welcome them, we read them and we respond to them. I am sad to see Mr Forwood has left the chamber, because Mr Forwood and I have had this dialogue quite often. The government responds to the reports.

Part of my function as Minister for Finance is that once a year I do an all-encompassing and sweeping report about every single recommendation of the Auditor-General in order to report to the Parliament on how they have been dealt with. If the Auditor-General makes a recommendation, we, as a government, are accountable for it. The Parliament has a chance to

debate that report. The Parliament sees it and the public sees it.

We have received a specific report from the Auditor-General which Mr Davis referred to, which talks about some of the rebates that come back from our master television purchasing agency, and the Auditor-General asks, 'How do you account for it?'. That is a legitimate question for government to deal with. We welcome the report, and we will respond to it. Clearly Parliament gives appropriations. This is a grey area and the Auditor-General has asked us to address it. Let us not forget that the Parliament has given the government authority to spend money for certain purposes, and we will spend it for those purposes.

One of the ancillary benefits of government advertising is that we advertise for nurses and teachers and about traffic safety. If there is a greater capacity to buy more advertising then government will take advantage of that. The Auditor-General has asked, 'How are you going to account for it?'. It is a legitimate question. It is not critical of the government. It is asking about the mechanism. Of course the government will respond to the Auditor-General. We welcome his reports.

This is the 183rd day that the Legislative Council has sat during the life of this Parliament. The Public Accounts and Estimates Committee meets every year and grills individual ministers for 3 hours at a time. Reports are tabled. For the first time in the history of this state, and possibly for the first time in Australia and even in the Westminster system, an Auditor-General is now appointed on the recommendation of a parliamentary committee rather than a recommendation of the executive government.

I was at the farewell to the retiring Auditor-General, Wayne Cameron, the other night, along with you, Deputy President, and many members of the Public Accounts and Estimates Committee. Fascinatingly, the Auditor-General was recounting how his appointment was originally made by the executive government. Now the Public Accounts and Estimates Committee recommends the appointment of an Auditor-General. We have brought in openness to a far greater extent.

Earlier Mr Forwood, by his own words, accused the Public Accounts and Estimates Committee of being independent. Well good on him — it is! It makes recommendations that are critical of government, which shows the difference between us and the Kennett government. We have an independent body that makes recommendations to government.

In response to Mr Davis, of course we will look at the Auditor-General's comments, of course we will apply them to government and of course we will have an ongoing dialogue to make government open and more transparent and more accountable.

Supplementary question

Hon. PHILIP DAVIS (Gippsland) — I thank the minister for his response. The Auditor-General has underlined his grave concern that $1.5 million was paid to an unnamed community television operator by the master agency media service contractor and that $165 000 was paid directly to the operator, describing these payments as having a level of accountability that 'is unacceptable'. Will the minister investigate these concerns and commit to reporting publicly before the Parliament adjourns in October to ensure that no public money has been used inappropriately?

Mr LENDERS (Minister for Finance) — The Auditor-General has reported on — if I recall the figure — $163.1 million of expenditure. The Auditor-General has reported that in a number of technical areas the government could tighten things up and look at them, and he has made a couple of general comments, but fundamentally he has said that this is in accord with the law of the land. We have a system of accountability that was never there before — —

Hon. Philip Davis — Why are you so defensive, John?

Mr LENDERS — I am not defensive. The only thing I would say I am defensive about is the poor felt on Mr Davis's table, which is actually getting wet from the crocodile tears he is crying! This is coming from that side! It is coming from a man who was a parliamentary secretary in the Kennett government and who is lecturing this side on accountability! We have empowered the Auditor-General. We have given him independent powers. We have made him an officer of the Parliament, and to nobble him — if anyone wanted to do that again in the state of Victoria — you would need a referendum. We welcome his report. We will act on his report and will remain open — —

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

Wind energy: development

Ms MIKAKOS (Jika Jika) — Deputy President, I congratulate you on presiding over your first question time. My question is to the Minister for Energy Industries, the Honourable Theo Theophanous. Can the minister inform the house of investment prospects in

the wind energy industry in light of the passing of the Victorian Renewable Energy Target Bill, and say whether the government is responding to calls to get on with developing the wind energy industry?

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — I thank the honourable member for her question. The government has been getting a lot of free advice about wind farms and is now looking forward to getting on with the job and projects at Waubra, Portland and Mount Gellibrand, just to name a few. Many groups, companies and individuals have been offering their opinions about the government's next step in facilitating the wind energy industry's development in this state. Following the passing of the Victorian renewable energy target legislation last night I had another look at all of the requests we have had to increase wind energy development.

The house might be interested to know that we have been under pressure for many years to get on with wind energy development. Let me quote one strong proponent of wind energy development from as far back as 2001. This proponent was pushing the government back then to emulate the United Kingdom's approach to wind energy.

An honourable member — I wonder who that could be!

Hon. T. C. THEOPHANOUS — Let me quote what this says. The proponent said:

> … the United Kingdom government is facilitating the generation of electricity by wind power. UK Industry anticipates that wind will provide 5 per cent of all generation by 2010.

The proponent also said:

> Clearly the Victorian government should have a strategy in place for investment and planning approvals to facilitate this industry …

The proponent went on to say we should get on with it because:

> … long lead times are required and the development of that market is evolving in Australia. The Victorian government should take a long view, and not just the 'bandaid approach'.

Who do members think was getting into us for not ramping up wind energy development in 2001?

An honourable member — Bob Brown!

Hon. T. C. THEOPHANOUS — Do members think it might have been the Greens? Do they think it was Greenpeace? Or do they think it might have been Environment Victoria?

Honourable members interjecting.

Hon. T. C. THEOPHANOUS — No, wrong again! Let me give the house another quote from the same press release. In it, on behalf of his organisation, the author said that his organisation:

> … can support the general desire expressed by the ETU —

the Electrical Trades Union —

> for more wind power.

The same source wanted to get on with the ETU in developing wind power in this state. Members have all got it wrong. I have to inform the house that these are the words of none other than the Leader of the Opposition, the Honourable Mr Philip Davis, walking hand in hand with Dean Mighell and the ETU in support of wind energy in this state. What has happened? We have seen an incredible backflip. First of all we had Backflip Bill and now we have got Backflip Phil. This is where we have got to. What a rabble! What a joke! This opposition is a complete mess. Its members are not fit to govern this state.

QUESTIONS ON NOTICE

Answers

Mr LENDERS (Minister for Finance) — I have answers to the following questions on notice: 3344, 4936, 5409, 6512, 7229, 7231–2, 7448–9, 7452, 7459, 7491, 7495, 7498, 7502, 7544–5, 7582, 7587, 7660, 7671, 7702, 7713, 7754, 7785–6, 7789, 7791–3, 7796, 7827–8, 7831, 7833–5, 7838, 7876, 7881, 7965, 7972, 8045, 8047, 8049, 8112, 8115, 8131, 8165–6, 8206, 8224, 8231–3, 8235–6, 8239, 8241, 8244–52, 8255–62, 8264–7, 8269–70, 8293, 8297–8, 8305, 8381, 8383, 8388, 8399, 8430, 8441, 8443–5, 8448, 8454, 8583–5, 8589–600, 8602–4, 8606–7, 8609, 8611, 8614, 8682–3, 8685–93, 8724–7.

CATCHMENT AND LAND PROTECTION (FURTHER AMENDMENT) BILL

Second reading

Debate resumed from 12 September; motion of Ms BROAD (Minister for Local Government).

Hon. D. McL. DAVIS (East Yarra) — I am pleased to make a contribution to the debate on the Catchment and Land Protection (Further Amendment) Bill. In doing so, I indicate that the opposition will move a reasoned amendment to this bill that seeks to highlight

a number of deficiencies in the bill. There is much in the bill that the opposition agrees with but there is also much that we disagree with.

As members are aware, the bill amends the Catchment and Land Protection Act, or CALP act, to make further provision for notices and declarations as to noxious weeds and pest animals, and contains a series of further provisions for enforcement of the act. The bill creates revised landowner offences and allows authorised officers to gain access to municipally held ratepayer information for the name, address and other details of landowners and to apply for warrants to be issued to enter land for longer than 24 hours for the purposes of noxious weed management programs and to seize items mentioned in the warrants. The bill also introduces a prohibition on the possession without a permit of noxious weeds for purposes of display — for example, in a garden or landscape display or other facility of that nature.

The bill is also cumbersome. It introduces new layers of bureaucratic intervention. Whilst the central thrust of the bill, which is to provide greater powers for the better management of noxious weeds and pests, is strongly supported by the opposition, there is a number of serious issues. The bill also creates a number of issues of compliance and individual rights. I quote from the Scrutiny of Acts and Regulations Committee report which provides a warning to the Parliament as to the impact of some of the provisions. It says:

> The committee reports to Parliament pursuant to a term of reference provided in section 17(a)(i) of the Parliamentary Committees Act 2003 — 'trespasses unduly on rights or freedoms' — onerous provisions placed on citizens attracting civil or criminal penalties where intent to commit an offence is absent.

That is an important warning by the committee. The report goes on:

> The committee notes the amendment made by clause 23 makes it an offence to fail to advise the secretary if the person served with a prescribed notice is not the owner or occupier of the subject land.

Again, the bill creates onerous obligations on people who have no responsibility in any fair sense of the meaning of the objects of the act. The report goes on:

> The committee will seek further information from the minister concerning whether service is to be personal service or some other form of substituted service and how a person so served is to be informed or cautioned of the penalty provision for failure to advise the secretary that they are not the owner or occupier of the land to which the relevant prescribed notice relates.

The committee makes the point that it is awaiting further advice on that provision. I am not sure whether it has received a response from the minister on that matter, but I would be interested to hear what comments the minister has to make about that point in his summing up.

The bill makes it very clear that landowners who are served with a notice and comply in full are still required to notify the secretary. That seems a cumbersome and onerous burden, that people who have undertaken their legitimate duties and have complied with every step should be then further required to take the bureaucratic step of notifying the secretary. There is an unnecessarily cumbersome approach and unnecessary dead hand in the approach taken in the bill.

Some of those points have been made well by the Victorian Farmers Federation in its comments on the bill. I was pleased to be given some advice by the VFF, which has made public statements. It is worth putting its view on the record here because in many respects it is the same position as that of the opposition. We were pleased to see that our view largely equates with what the VFF had to say. I quote from a briefing note of 24 July on the bill. It states:

> The VFF were consulted … however have only recently seen it in full detail.

That is the pattern of this government, this slippery approach of bringing in things, often with minimal opportunity for broad community comment. We saw that in the lower house yesterday with respect to the ratification procedures on the planning provisions relating to the urban growth boundary. It is a good example of how the government is now prepared to abuse process and crunch things through in a way that is unsatisfactory on almost every level. To push through in the lower house in less than 24 hours a change to a planning provision of such importance is just an extraordinary abuse of process. However, in terms of the bill, the briefing note states:

> The VFF support some aspects of the bill, however have concerns with others.
>
> The VFF support a more streamlined enforcement process and tighter penalties, for those in breach of the CALP act. However, land-holders who are doing the right thing should not be burdened with extra paperwork and compliance costs.

That is my earlier point. The VFF supports:

> Tighter penalties for land-holders who do not meet their pest and weed responsibilities.

At the end of the day that is of course a collective responsibility of a community, and it applies to local

areas. I note that the bill gives greater powers to declare a local area infested or in need of action and that is something the opposition supports. The VFF also supports:

> A more streamlined enforcement process.
>
> Moves to stop people keeping noxious weeds as ornamental plants.

I note that there has been very little consultation with the nursery associations and industry. A number of members of those have made points to me that, whilst they do not necessarily oppose some of the aspects of the bill relating to ornamental plants, they do have concern that the provisions came forward without them being aware of them. The VFF also supports:

> Providing the department with powers to take samples of plants …

Obviously some of the provisions in the bill are simply sensible. The ability to get an order from a magistrate to enter a property to undertake certain works has traditionally been for a single day entry. Obviously on some occasions that is not sufficient time. It seems cumbersome and bureaucratic to require an agency to go back to the magistrate again to get another order for a second day later. It seems much more sensible to allow a longer time in the initial approach to allow the work to be done as is required.

Members can think of all sorts of practical issues that may intervene that make it difficult to carry out the required work on a particular occasion — for example, the weather may intervene. Somebody may not have done the work on their property and if a magistrate gives an order to allow an officer to enter the property, perhaps to collect samples or undertake some other particular activity, the weather may intervene to prevent that being done. Some of those more mechanical provisions that smooth out the activities of the relevant officers seem only sensible.

The VFF also listed the areas that are not supported:

> Under the amended act, priority areas will be established in which all land-holders will be issued with a compliance notice. Land-holders who are compliant with their pest and weed responsibilities still must apply in writing to the department explaining what action they have taken/why they have not taken any action.
>
> …
>
> Failure to supply this notice will result in a fine of 10 penalty units.

It seems onerous and cumbersome to force people who have complied to undertake those sorts of reporting requirements.

There is still a fundamental issue in land management in this state with respect to pests and weeds. The great issue is that the state government does not treat its land in the same way as it expects private land-holders to behave. The real issue is that time and time again across country Victoria we are told, accurately in my view, that government land — parks in particular, but government land in general — is not managed to the same standard as is required of private land-holders. That fundamental inequity is a concern.

On 25 July the Victorian Farmers Federation issued a news release making this point and calling on the government to subject itself to the same weed and pest standards it is planning to implement on private land-holders. The media release states:

> … the VFF supports the majority of changes being considered by Parliament to the Catchment and Land Protection Act, the proposed amendments will not address poor weed control on the state's biggest land-holder, the Victorian government.

Further it states:

> Private land-holders have a responsibility to manage their land in a manner that is sustainable and prevents weed incursions onto neighbours' properties.

This is a collective responsibility. Further it states:

> While the VFF supports the intent of the proposed changes to the Catchment and Land Protection Act, in some areas the government have got it completely wrong and it must be reviewed.

The points picked up by and made in the *Weekly Times* of 26 July are fair points. It is for this reason the opposition is moving this important reasoned amendment. I move:

> That all the words after 'That' be omitted with the view of inserting in their place 'this bill be withdrawn and redrafted to include comprehensive provisions to control weeds and pests on public land as well as private land and to enforce provisions in the bill on public land as well as private land'.

This is almost a competitive neutrality issue in many respects, and government and private land should not be treated with great distinction in this sense. At the end of the day this is about weeds and pests and having in place regimes that will achieve proper management of weeds and pests. The failure of government to manage its land properly is a cost on private land-holders. Private land-holders are forced to pick up the tab to do more costly work because of incursions onto their land that are sourced on government land. Because of the

collective responsibility we all have as members of the community and that all land-holders have, the government, as a land-holder, should accept the responsibilities it is prepared to put on private land-holders. This is a fair set of points, and it is not unreasonable to move such an amendment and to expect the government to respond to it.

Government land management in this state has not been up to scratch in the recent period. We have seen other public debates relating to catchments, and the role of vegetation management that is central to this legislation becomes more and more important.

I want to make some comments about the role of the catchment management authorities and how they are performing at this time. In the first instance I will start with the words of Ian Ross, from the western side of the state. He is a farmer from Telangatuk East and a former director of the Glenelg Hopkins Catchment Management Authority. By all reports he is a very competent individual who has contributed greatly. It is worth putting on the public record some of his comments in a letter that, as I understand it, originally went in one form to the Premier but later went to the *Weekly Times*.

The letter talks about the Glenelg Hopkins Catchment Management Authority as an example of catchment management authorities (CMAs) around the state. It is the one Mr Ross is most familiar with, obviously enough, and I understand he has resigned from that authority. The letter from him published in the *Weekly Times*, an opinion piece headlined 'A scandalous waste of money', states:

> The Glenelg Hopkins Catchment Management Authority has little to show for the millions of dollars it has spent …
>
> It is time the community of south-west Victoria and governments at all levels learned about what is happening with the Glenelg Hopkins Catchment Management Authority and its waste of taxpayers money.
>
> Since its inception nine years ago, the CMA has received millions of dollars to fulfil its role of restoring stressed rivers and their severely degraded catchments.
>
> A brief window of opportunity to reverse decades of ecological decline is being lost through the inability to translate plans and strategies into any real achievements.
>
> Earlier this year, with great reluctance, I resigned after serving nearly three terms as a director of the CMA board.
>
> In the resignation letter I sent to both environment minister John Thwaites and his parliamentary secretary Elaine Carbines, I set out the major issues with the CMA.
>
> I told them of the CMA's use of public funds, its organisational culture, its lack of engagement with the community and its shortcomings with implementing strategies and policy.
>
> I had hoped setting out my concerns so frankly to the highest level of government would prompt a thorough investigation of the CMA and its lack of achievements.
>
> The government has told me it has investigated the issues I … raised …

However, I listened to what was said in this chamber the other day by Ms Carbines, who is the Parliamentary Secretary for Environment, and she appears not to have gathered and learned the lessons that were put forward by Mr Ross. She tried to dismiss many of the serious comments he was making. Further the article continues:

> Under the Catchment and Land Protection Act, it is the role of the CMA board to ensure efficient and effective operation of the authority.
>
> But I don't believe there is sufficient scrutiny of the CMA's outcomes.

The letter says it has become, as Mr Ross calls it:

> … a kind of 'catchment Santa Claus' to the groups most vocal in seeking funds, with insufficient regard for what they will achieve.
>
> There are many wildlife corridors that link nothing, but are subsidised farm windbreaks creating pseudo biodiversity, while core catchment assets are left unprotected.

This is an issue of priorities and this government spends a lot of money but often gets its priorities quite wrong. The article continues:

> The waterways program through the river health strategy is supposed to protect the best assets at risk.
>
> Yet the CMA spends a vast majority of its river health funds on minor creeks and gullies in measures that tend to be implemented at random.
>
> The net effect has been no significant improvement in our streams.
>
> When you ask what measurable change has resulted from the CMA's $15 million budget, you only get excuses.
>
> The board is unable to demonstrate significant improvement because of its catchment management.
>
> A clear sign of this limited natural resource management understanding is in the CMA's 2005–06 corporate plan.

The letter quotes a reason given in the plan as being:

> to build capacity among the community, land-holders, industry and regional natural resource management agencies to undertake on-ground works.

This is a very fair point that he is making. The article continues:

> Surely the key objective of on-ground works is to actually achieve tangible improvement in our catchment health?

It is not about achieving capacity to achieve something, it is about getting on-ground results, and this seems to be a fundamental misunderstanding of objectives and aims. He continues with a number of important points about river frontage and so forth.

Mr Ross talked about the resourcing of the catchment management authorities and wetland strategies. All of these key land management issues should be central roles of catchment management authorities under the primary act that we are amending today, and the fact that many catchment management authorities have not got the clearest objectives means that the environmental results on the ground are less than optimum.

It is interesting to look at the size of the budgets of the catchment management authorities now. They have grown significantly, but it is not clear to me that there has been a commensurate increase in the achievements of many of our catchment management authorities. It is worth putting on the public record information about the size of a number of our catchment authorities and the changes in recent years so that people can see the number of staff that are used. People need to ask whether we are getting the best value for money that we possibly could for these important authorities.

At the outset I make the point that the concept and the approach of using catchment management authorities to take an overall catchment-wide view and to be able to integrate the issues and challenges across a catchment is the right one. This act, going back to its earlier incarnations, is in fact a Kennett government act and it was visionary. That does not mean it is immune from criticism; it does not mean that we cannot do better. It is in the sense of wanting to do better and getting the best outcomes that I make these comments today. My concern is that every dollar of bureaucratic waste means less environmental projects will be completed, and that is the central point.

If you look at the Corangamite Catchment Management Authority, you see that in 1998–99 there were 11 employees; there are now 42. The East Gippsland Catchment Management Authority employed 37 people in 1998–99 — in those days most were devoted to floods — but there are 29 staff now. The Glenelg-Hopkins Catchment Management Authority has gone from 8 staff in 1998–99 to 56; the Goulburn Broken Catchment Management Authority from 26 to 52; the Mallee Catchment Management Authority from 13 to 41.5; the North Central Catchment Management Authority from 22 to 72; and the North East Catchment Management Authority from 38 to 39, one with a very modest change. The Port Phillip and Westernport Catchment Management Authority has 17 staff now. The authority did not exist in 1998–99; in an earlier incarnation it was the Port Phillip Catchment and Land Protection Board which had 5 staff. The West Gippsland Catchment Management Authority had 50 staff in 1998–99 and that has increased to 86 in 2004–05; and Wimmera Catchment Management Authority had 13 in 1998–99 and has increased to 38.

Across the state those employed by catchment management authorities have increased from 223 to 472.5.

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

Quorum formed.

Hon. D. McL. DAVIS — My purpose, as I said, in listing on the public record those important figures showing the increase in the number of employees from 223 in 1998–99 to 472.5 in 2004–05 — and presumably given that rate of increase it is even more now — is to highlight the growth in the size of catchment management authorities and to look at ways that we could seek the best value for money.

I make the point that the income of the authorities has increased from $66.71 million in 1998–99 to $149.42 million in 2004–05. Again the question is, is a commensurate amount of additional work being done? The evidence of Ian Ross and others across the state — and certainly evidence that has been put to me by many — is that there is not an equivalent increase in the outcomes for the community. I make the point that if I were a minister after the end of November, I would strongly support catchment management authorities because they have a critical role, but I would seek to get the best value out of them for the community and seek to have them focus on delivering environmental and land management projects for the community.

Ian Ross had it right in saying that we have a small window of opportunity in many parts of the state to institute the important environmental and catchment level works, and that it is important that every dollar that is spent be used to maximum effect. There is no place in this area for bureaucratic waste, empire building, featherbedding or other approaches that lead to less than optimum outcomes. Catchment management authorities are diverse organisations with very different ways of approaching their objectives, which is appropriate. It is one of the strengths of those organisations because they have different tasks in different places. The terrain is different, the waterways

are different and the specific interventions that are required to be facilitated are different from place to place, so you would expect different profiles in different authorities across the state. I see nothing wrong with that, it is a healthy sign rather than a negative sign. It is true that Victoria has the strongest of the catchment management approaches around the country, and certainly many of our catchment management authorities have been successful in attracting Natural Heritage Trust money, which is an important aspect of what has been achieved over the last decade or so in Victoria.

I make the point that I was pleased that the federal government when it sold a third of Telstra after the 1996 election put an enormous amount of money — the $1.15 billion that was spent at that time — into environmental projects. I was also proud to have been somewhat involved in the process. I was pleased with the use of that capital on environmental projects that were funded in many cases through the Natural Heritage Trust. That was a visionary approach that saw enormous amounts of funding injected into on-the-ground management of environmental projects and issues, such as salinity and biodiversity, with a focus on the necessary land management issues. The existence of our CMAs meant that Victoria was very well positioned to maximise its approach through the Natural Heritage Trust.

The approach that was achieved throughout that period was important, but there needs to be a constant focus on organisations like catchment management authorities to always keep a weather eye on ensuring that the best outcomes and values are achieved. Because of the issues raised by Mr Ross and the issues that have come to light over the recent period, the member for South-West Coast in the other place, the shadow Minister for Water, and I wrote to the Auditor-General seeking his comprehensive examination of catchment management authorities. Our letter dated 25 August states:

> Since their inception the CMAs have grown significantly in terms of budget, staffing and responsibilities.
>
> Given that CMAs have now been in operation for nearly 10 years and they have experienced massive growth it is appropriate that an external it audit of their operations be conducted to ensure taxpayers are getting value for money and that these authorities are meeting their responsibilities and objectives.

Our letter quoted Mr Ross as having said:

> It is time the community of southwest Victoria and the government at all levels learned about what is happening with the Glenelg Hopkins Catchment Management Authority and its waste of taxpayers' money.

Mr Ross also said:

> I don't believe there is sufficient scrutiny of CMAs outcomes.

The central point is that land management in this state has not lived up to what it could have achieved. We need to put this in a positive light. We need to look at ways of improving land management. One is to ensure that CMAs accept their responsibilities and do so in an efficient way. Another step is to ensure that public land is managed properly, which is the purpose of my reasoned amendment. Another matter is the focus that comes from the department. I do not propose to discuss it at length today because it is the wrong occasion for a range of reasons, but the department needs a thoughtful focus. It could do much better in so many areas than it does.

With those comments I commend the bill to the house but indicate that the opposition's reasoned amendment asks that the government come back with a comprehensive management plan for public land as well as private land. I also indicate that the community needs to keep its focus firmly on the land management issues that have been highlighted by the debate on this bill.

Hon. B. W. BISHOP (North Western) — On behalf of The Nationals I am pleased to make a contribution to the debate on the Catchment and Land Protection (Further Amendment) Bill. The Nationals considered moving a reasoned amendment but it was quite similar to the opposition's amendment. It would certainly have the same effect. What we were going to put forward — obviously Mr Davis's amendment is first and we will be happy to support it — was a little less wordy. We were going to move: 'That this bill be withdrawn and redrafted to apply the same conditions of enforcement of weed and vermin control to public land has apply to private land'. I believe that would get the same end result as Mr Davis's reasoned amendment, which we will be happy to support.

The purposes of the bill are to replace the requirement to reach agreement on a control program with each landowner with a requirement to serve a land management notice on each land-holder; to provide that the minister may declare a 'priority area' with a statutory notice, thus obliging all landowners in the area to undertake control measures; to empower the secretary to issue notices to individual landowners requiring compliance; to require that a landowner advise the secretary of work carried out in response to a land management notice, where previously they only had to indicate compliance, and provide for an infringement notice for failure to do so; to allow

authorised officers to access municipal records for names and addresses; to extend the period of a warrant beyond a day to allow officers to realistically carry out control activities where landowners have failed to meet obligations; to allow authorised officers to search for and seize specified items under a warrant; to clarify and improve conditions for declaring noxious weeds; to prohibit the possession or display of noxious weeds for public displays without a permit; and to make planting and propagating of noxious weeds an offence; and to allow authorised officers to sample plant materials from properties.

There are some good things in the bill, but like most bills there are also some bad things. Our position is that we will support the reasoned amendment and then work through how we should deal with the bill. The bill sounds good, but there are a few issues about it. One is that when the provisions of the bill apply, they do so with a very complex bag of red tape. The other issue we very strongly object to, which is subject to our reasoned amendment, is that the bill only refers to private land. It will not put the same responsibility on public land-holders who of course are the government.

The control of weeds is at a huge cost. I have kept myself updated on it. The CSIRO does a fair bit of research, and I believe the cost to the Australian community is about $4 billion per annum. In the primary producer area in Victoria the cost is almost $1 billion per annum. As a farmer I am quite closely connected with the land and although I am certainly not an expert on weeds, I have spent a lot of time as a kid out in the paddocks cutting weeds with a hoe, as the Honourable Graeme Stoney may have done, too. There was not so much spraying when I was a kid.

Mr Viney — I still do.

Hon. B. W. BISHOP — Mr Viney still does. I have not done that for a while but as a kid I cut a lot of weeds and our kids cut a lot of weeds, too, as part of running a family farm. If our kids had visitors in the school holidays, they did a bit of weed cutting as well. It was a character-building exercise. We well know about the cost and time taken up in trying to control not only weeds but also pests.

That happens across all industries. There are a large number of industries in the primary production area — grains, horticulture, dairying and grazing. In the horticultural industry they have some very clever techniques. These days they use chemicals quite a bit as well as adopting physical means but the shrouded spray outfits they have are excellent and very clever. They have clever cultivators that dodge around vines, for example, to get rid of weeds. In the dairying industry there are selective mechanisms for managing weeds. Some of the sprays in the grazing industry freeze the plants, which increases the protein and allows animals to eat them. This is a very efficient way of managing the process.

When I served on the Environment and Natural Resources Committee serrated tussock was an absolutely terrible weed. A recommendation came out of that committee that if there is a bad weed, such as serrated tussock, it should be jumped on by putting a special task force into place to ensure the weed's growth does not get out of control and become a real pest, particularly in grazing areas. In the grains area there is quite sophisticated equipment which is very wide and quick. It is expensive and now mainly managed by the global positioning systems. We have to be very careful how we manage weeds, particularly in the use of chemicals. Resistance to certain types of chemicals requires a lot of research and careful management.

The other issue on the farm that we as kids had a fair bit to do with was rabbits. I do not think many kids on farms have not had a rabbit-trapping trick. It is interesting to know that rabbits came into our country in the early 1800s. If my memory is right, they were brought in by the Austin family, no doubt in good faith. Tom Austin used to be a member of Parliament in the other place; he was a great bloke but I never quite forgave him for the fact that his family had brought rabbits to this country. They were brought in in good faith, as many of our weeds were as well, but now we have to manage them the best way we can.

How do we handle the problem? It is The Nationals' view that the government is short on a lot of things in this catchment management program but one thing it is not short of is a big stick. We have seen the number of catchment land protection officers thinned out substantially. They have almost gone and been replaced with compliance officers. Changes have been made as to what, for example, we can use to control rabbits; they say we cannot now use carrots, which are a magnificent poisoning bait for rabbits. We are now told we will have to use something else, which will probably be nowhere near as efficient. It makes it very difficult for private land-holders — and the public land-holders should be involved, too — to manage rabbits, given those sort of restrictions.

Hon. E. G. Stoney interjected.

Hon. B. W. BISHOP — Mr Stoney goes for fox baits as well, which are probably more prevalent in his

part of the country than in ours. I was talking to some of the land-holders in our area just the other day. I asked how it really works. It sounds very similar to what is in the bill. If a private property has a weed on it, the officer will ring the farmer; he will turn up and have a look at the weed and issue a work order. He will give the farmer time to do it and then reinspect. If it has not been done, a fine will be imposed.

That means now the farmer will have to go through the process of writing and fully explaining what he has done. We think that is a very complex way of going about it. It is interesting to note that one of the farmers told me that if there is a work order over your farm, you cannot sell the farm. That is quite restrictive. Perhaps the minister, in his response, might be able to clear that up. I think it is quite a restrictive process, if that is the case.

Landcare groups and farmers groups, which have a huge commitment to managing weeds and pests in country areas, want a couple of things done. They want a bit of assistance and they want some organisational support, which used to be available much more readily than it is now. That is all our country people want so that they can manage their private properties.

The issue in that area is about coordination. I have read lately that Landcare numbers are dropping away, and I must say that I do not blame people for not joining Landcare because they do not get too much help. We see Landcare groups as leading the way in relation to the environment, particularly in managing weeds and pests. Landcare groups and local farmers get really frustrated when they do what is required on their land but government land does not have much or any work done on it. The term 'neighbours from hell' is used, and that is certainly the case.

The government is keen to establish parks, but it is not too keen on caring for them. I can remember when I served on the Environment and Natural Resources Committee and we were looking at that issue. During that time I met a young lady who was a parks officer, and in my judgment she was a really good one. She told me that she spent 30 per cent of her time writing submissions to get money to manage the weeds in parks. That is atrocious, and it should not happen. If the government takes on the responsibility of putting parks into place it should also manage them.

This brings us back to the issue that this bill ought to be a bill of equity. It should put the same punitive measures in place for public landowners that apply to private landowners. To my mind and that of other members of The Nationals, there is no reason for the government not to do that. We will be supporting the reasoned amendment moved by the opposition, and if the government was fair dinkum it would do the same.

Clause 8, which inserts part 5A into the Catchment and Land Protection Act, provides an example of what happens. I have been through the clause and it closely follows what I believe happens now. It is certainly a complicated process. The land-holder is notified, a notice is placed in the *Government Gazette* and published in the newspaper. The process goes on and on and, as Mr Davis said, at the end of the day the farmer has to do a lot of book work. Whether they have done the job or not does not make any difference, but it is quite a load on people who have to work through that process.

The Nationals think there is a simple fix for that. The department should identify what the weed is and where it is — someone has to do it, we accept that. It may turn out to be just an isolated case, and if that is so the department can proceed along the appropriate lines. Alternatively, it might involve a larger infestation of weeds across a number of land-holders, but we think the process could be the same. It is fine to send a notice. There could also be a visit from an officer who would be able to give some advice and work with the land-holder in a cooperative way.

The parliamentary committee I served on some years ago that looked at weeds in Victoria — I think it was 1998 — —

Hon. D. McL. Davis — It reported after the election in 1999.

Hon. B. W. BISHOP — It was a good committee and made a number of recommendations. One of those recommendations, if my memory serves me right, was that the government should do its best to cooperatively approach weed and pest management. That would have been the way to go. Members of that committee believed, and The Nationals still do, that more could be done through a cooperative approach than the big stick approach, which is what we appear to have now. Timing, management methods and practical ways to resolve the problems could then be sorted out.

I have been involved in managing a problem area myself with a difficult to eradicate weed called hardhead thistle. Years ago we formed a special group in which everyone cooperated with the department. Assistance was given towards the cost of chemicals, but everyone had to pitch in together to ensure things were done. That system worked very well, but it was a much

more cooperative approach than the government is putting forward in this bill.

I want to make a few comments on the thorny issue — a play on words — of weeds and pests on roadsides. For many years landowners of adjoining properties have been expected to deal with them, and if you look around and are experienced enough to know what is going on, you would conclude they probably do the best job. They might want to cultivate the land along the roadside to clear up the weeds, they might want to spray it, or they might want to rip rabbits. Of course if you are going to do all these things you have to get a permit, particularly for ripping rabbits. People who do this on land that is not their own could get landed on by the Department of Sustainability and Environment, yet the DSE will not take any responsibility. This is even more annoying to land-holders because they do not own the government land.

I refer to an article published in the *Weekly Times* of 30 August this year about Mr Allan Stephens who is an invalid pensioner. The article reads:

> … Allan Stephens was taken to court and fined $214 in 2002 for not controlling gorse, a regionally controlled weed, on his adjacent roadside.

The article continues:

> Mr Stephens, who has a serious lung condition, said he was angry at being taken to court and fined when —

he believed —

> it was the local council that should have controlled the gorse.

The article goes on to say that Mr Stephens was even angrier when he looked over the road to the local Crown land which was heavily infested with weeds. He is quoted in the article as having said:

> You only have to walk down the road to see government land literally covered with gorse.

That article illustrates the inequity of the whole process. The government needs to address that critical issue.

I have always thought it would have been difficult to prosecute an adjoining land-holder because of occupational health and safety issues or even the fact that they do not own the land. However, it appears that was done and that issue needs to be sorted out. There is no doubt that land along roadsides ought to be the responsibility of the department. It used to do it years ago but now it is hopelessly understaffed and is more inclined to do the enforcement bit with little or no coordination. There is a view rattling around the system that local government should be responsible for that. In fact that would not be workable because local government could not afford it and it would put an enormous load on the ratepayers. If you work through all the elimination issues, there is no doubt that it should be the government's responsibility, but it will not take that on. If we had facilitation officers, individual issues could be worked through, and I believe it would work in a much better way. I am absolutely certain that with a bit of cooperation and a bit of management, we could get a better result out of this whole issue. If it is a big area, as I said, there could be a special area plan, which was in fact recommended by the Environment and Natural Resources Committee 1998 report. The committee made the following comment in that report:

> Special area plans may be implemented to deal specifically with roadside weed management problems. For example, an action plan could be designed specifically to deal with a particular weed species on a designated roadside.

That is what we thought in 1998, and that is probably still the best way to go.

We call on the government to stop the confusion that is about at the moment and to look at getting some practical structures into place that are built around cooperation — I am referring here to adjacent roadsides — rather than having the bureaucratic red tape we face at the moment and the severe punitive measures that have been put into place.

We in The Nationals think the government has missed a great opportunity here to create some equity between private land-holders and the public land-holder, which is of course the government. We believe that if the government were fair dinkum and if it were really serious about what it is trying to do with weeds and pests and the environment, it would put public and private land on the same level and we would have an absolutely level playing field. Then we would not get, we would hope, the accusation that the government is the neighbour from hell. The government could put in place cooperative and practical structures, and it could allocate responsibility much more readily. That would be a much fairer system, and I believe it would also go a long way towards addressing the problem of roadside weeds and pests. Every year at every farmer conference the issue of roadside weeds and pests comes up as a complaint or in a resolution.

The Nationals think the government has missed its chance. It could have done what we suggested; instead, it has smothered the system with red tape, and I suspect it will come out at a huge cost, but it will be a huge cost for the private land-holders and not the government, which will have no responsibility on the public land.

I urge the house to support the reasoned amendment put forward by the opposition, which would at least allow us so get some equity into the system, which is sadly lacking at this point in time.

Ms CARBINES (Geelong) — I am very pleased to speak on behalf of the government in support of this bill which seeks to improve the efficiency of the controls for weed and pest animals in Victoria. The management provisions for weed and pest animals come under the Catchment and Land Protection Act, which at times has been criticised for being inefficient, difficult to enforce and ambiguous in outlining the responsibilities of stakeholders. As a government we are very pleased to bring this bill before the Parliament today to enable the more timely, targeted and effective management of weeds and pest animals.

We all know and acknowledge that weeds and pest animals cause significant land management issues across the state. As a government we are working very hard to address these serious issues on two fronts: by providing more resources to tackle weed and pest animal infestation on private and public land; and, through the amendments proposed in this bill, by streamlining the enforcement provisions to make them more effective. We have responded to community concerns about weed and pest problems originating on public lands, and we have increased both the funding and staffing to manage these difficult problems.

This year's budget saw a further $2 million added to the $45 million spent on weed and pest management in the last financial year. An additional 35 positions have been created to address weed and pest control on public and private land across the state. Examples of our investment in the management of weed and pest animal infestation include $24 million over four years for weed and pest control on both public and private land; an additional $19.3 million announced last year for the protection of natural values in our parks and for weed and pest animal management; and the Moving Forward provincial statement, which was also made last year, contained a further $6.2 million for weed and pest management.

We already have a comprehensive financial investment in the serious issue of tackling weed and pest management in our state, and we have already seen significant improvement in preventing new pests from establishing. We have had a major impact on high-priority weeds, and an example I like to cite is the serrated tussock weed. In 1995 serrated tussock infested 130 000 hectares of land across Victoria, mainly in my region in the south-west. In 2005 — 10 years later — the infestation has been reduced to 82 000 hectares. Of course there is still a way to go, but to not only contain the infestation of serrated tussock but also reduce it substantially is incredibly significant, and I would like to acknowledge the work of the serrated tussock working party, which has worked incredibly hard in our region to achieve this astounding result. I note that in stark contrast, serrated tussock has become more and more of a problem in New South Wales, where a more significant infestation has taken place.

As a government we are also undertaking the first major review of the noxious weeds list, which has not occurred for 30 years. We expect to see more weeds declared as noxious as a result of this review. Since 1999 we have also nearly doubled the number of doggers in the state. I know that for country people that is a very important issue which has been raised in this place a number of times, so as a government we are very pleased to have doubled the number of doggers since we have been in power.

These examples are a clear indication of the Bracks government's commitment to tackling the serious issue of weed and pest animal infestation across the state. Through the amendments contained in this bill, we will streamline the enforcement of measures for weed and pest management. Specifically the bill introduces two new types of notice. The first is a priority area notice, which will operate in relation to specific rural areas where action has been identified as being necessary to control weeds or pest animals. The second is a directions notice, which will require a landowner to undertake specified works to control relevant weeds or pest animals on their land. These are sensible new provisions.

As a result of this bill landowners who have been given one of those notices will be required to notify the Secretary of the Department of Sustainability and Environment of the work they have undertaken to comply with that notice. This is a very reasonable and sensible addition to the provisions. I notice that the Honourable David Davis in his contribution was critical of the government for bringing in this part of the bill, saying it imposed an unnecessary bureaucratic burden on landowners.

We in government certainly do not consider that to be the case, and we think that if landowners have complied with a notice given by the secretary of the department, they will expect to have to outline what they have done to comply with that notice. It is not unreasonable to expect them to notify the secretary of what they have done to comply with the notice; it is very sensible. The bill will also allow for the issuing of infringement notices for failure to comply. It will streamline the

process for the issuing of a land management notice when land is jointly owned, and that is a very sensible provision.

The bill clarifies the power of authorised officers to take evidence of plant samples, and also allows officers to access information held by local government in order to identify a relevant landowner, which again is a very sensible provision. It allows for a search warrant to be issued for entry on more than one day because currently a search warrant can only be issued for one day. The bill will insert into the act a provision to make it an offence for the displaying, planting or propagating of a noxious weed. These are sensible amendments to the act and they have been welcomed by land-holders across the state. They make the enforcement of provisions that we already have under the Catchment and Land Protection Act more streamlined and efficient so they can be carried out in a way that assists with the eradication of some of the noxious weeds and pest animals across the state.

I was very pleased to see an editorial in the *Weekly Times* of 26 July congratulating the government on this bill. The editorial headed 'Weed fines hit the spot' states:

> We all hate being fined for speeding.
>
> But on-the-spot fines are a valuable and a major deterrent in the battle to save lives on our roads.
>
> Let's hope, then, that the government's decision to reintroduce on-the-spot fines for failing to control vermin and weeds proves effective in helping rid our state of these plagues and infestations.
>
> Yes, some people will still neglect their properties, as many others will still speed.
>
> But knowing you could be hit with a $430 fine should act as a major deterrent to such neglect.
>
> Department of Primary Industries staff will no longer have to drag land-holders into court to prove their case.
>
> Instead it will be up to farmers to either pay the fine or take the matter to court.
>
> This means DPI officers will spend less time in court and more time on the ground inspecting properties. DPI estimates it will be able to increase the number of annual inspections from 4800 to about 10 000.

So we have a big tick from the *Weekly Times* for the government's action in bringing this bill before the Parliament and enhancing our enforcement provisions in relation to weed and pest animal management.

I was very disappointed by Mr David Davis's contribution and his attack on catchment management authorities (CMAs) across the state. I think he has misread the very good work of the 10 CMAs, and on more than one occasion in a blatant political attack in this house has undermined their very good work. It reflects very poorly on him that he does not value the work that CMAs undertake on behalf of all Victorians, including him. It is disappointing to see him attack the Glenelg-Hopkins Catchment Management Authority and the good work it does under the leadership of Peter Dark and Colin Dunkley.

I have been working with the CMAs for nearly four years as a parliamentary secretary. It is one of the areas in which I liaise on behalf of the Minister for Environment in the other place. I am continually impressed by the work that they undertake to improve the health of our rivers and catchments across the state. Much of the work they undertake addresses key issues such as salinity and river health management and tackles the issue of infestation of our land by weeds and pest animals. Mr Davis is shadow Minister for Environment and for him to use this place to attack their very good work is terribly disheartening for the catchment management authorities.

The CMAs are very disappointed to note that Mr Davis does not support their work and is prepared to use this chamber in a blatant attempt to attack them politically. Catchment management authorities are very disheartened because they are made up of good people who care deeply about the environment and do a lot of voluntary work on the ground with farmers and land-holders to address key issues affecting the health of our catchments. Mr Davis does not congratulate them for that work. Instead he uses this place to attack them. He has already announced that he has written to the Auditor-General seeking an investigation into the catchment management authorities, and that is ridiculous because if there is anything that CMAs do it is that they spend most of their time writing reports for the state and federal governments. They spend a lot of time doing that.

Hon. David Koch interjected.

Ms CARBINES — Mr Koch agrees with me. They have to work incredibly hard to report back to their masters in the federal and state governments. I would say they can bear any amount of scrutiny. Mr Davis ought to rethink his attack on CMAs. He ought to get out of his South Yarra office and spend some time in Victoria's catchments meeting with the people who make up those authorities. He should go out and see what they are doing and where they are in improving the health of the catchments, including in the Corangamite CMA, which is in the area in which I live where they are working incredibly hard to revegetate

vast areas of our catchment, and where they are working to improve the health of the Barwon River. The Port Phillip catchment management authority led the Commonwealth Games tree planting across the state. In fact I was very pleased to join in on the tree planting and planted over 250 trees in the Commonwealth Games effort. I bet Mr Davis did not plant even one!

Hon. J. M. Madden — He would never get his hands dirty!

Ms CARBINES — I could not imagine Mr Davis getting his hands dirty, that is for sure. It is disappointing that he has attacked the catchment management authorities. I have made sure they have copies of what he has had to say about them. I have also made sure they know that the Bracks Labor government supports and values their work, understands what they are doing and can already see the benefits of significant financial investment in improving the health of our rivers and our catchments.

With those few words I am pleased to speak on behalf of the government in relation to this bill. It will make the enforcement of regulations relating to weed and pest animal management in Victoria much more efficient. It builds on the government's key work in investing more funds into weed and pest management both on the ground and by the employment of additional offices across the state. I wish the bill a speedy passage.

Hon. KAYE DARVENIZA (Melbourne West) — I am very pleased to rise and make a short contribution to the debate in support of the Catchment and Land Protection (Further Amendment) Bill. I am delighted to have the opportunity to speak after Ms Carbines, who is the Parliamentary Secretary for the Environment and who works very closely with the catchment management authorities, the water boards, other community groups and environmental organisations right across the state.

I want to pick up on one of the points that Ms Carbines made about what a terrific job catchment management authorities do. Whilst I was not in the chamber to hear Mr Davis's contribution, if he is being critical of the catchment management authorities then along with Ms Carbines I am very disappointed to hear it because they do a fantastic job of looking after our waterways and ensuring that pests and weeds are eradicated. They work very closely with Parks Victoria to ensure that our waterways are accessible to the community.

In fact I met with representatives of the Goulburn Broken Catchment Management Authority just last week in relation to a grant the authority had received to make the waterways more accessible for fishing. People from Parks Victoria were also there; they were doing some excellent work to improve access points along the river so that people who are interested in getting access to the river are able to do so. It is not just about being able to access the river but about making it accessible for people of all abilities. Those staff do a terrific job in looking after the waterways.

I want to speak briefly in relation to the bill. Weeds and pests of course pose a very significant threat to Victoria's social, agricultural and environmental values and assets. We want to ensure that those pests and weeds are eradicated as much as possible right across the state. The act is considered to be inefficient in its current form in both the time and resources required for its effective implementation. It has been heavily criticised by the community.

It has been estimated, to take one example, that Department of Primary Industries officers would be required to spend about 57 hours over a period of some months to bring a recalcitrant landowner before the courts for failing to control weeds or pest animals. That is an enormous amount of time; hence this bill will provide both a legislative and regulatory framework for land management in Victoria.

The act includes particular provisions that govern the responsibility of landowners for the control of noxious weeds and pest animals. These provisions have been criticised as being inefficient, difficult to enforce and ambiguous in outlining the responsibilities of the various stakeholders. Individual landowners and the community generally need to be able to know who is responsible for the eradication of noxious weeds and pests.

The bill makes a number of amendments to the act to improve both its administration and enforcement, and to provide for more efficient management of weeds and pest animals. It enables more timely, targeted and effective management of weeds and pest animals through the creation of two additional types of notice. Ms Carbines has spoken about these at some length, and I do not want to be repetitive, so I will just mention them quite briefly. The first type of notice will operate in what the minister has declared to be a priority area and is designed to support community action in relation to the management of specific weeds or pest animals that have been identified as being of particular concern within a community.

The second type of notice — a directions notice — is designed to target an individual landowner where it is known that works are required to be undertaken to control a specified weed or pest animal on that landowner's property.

These two new types of notice provisions will provide authorised officers with alternative and simplified means to target the control of weeds and pest animals. It will be an offence to fail to respond to a notice or to not undertake one of the methods specified in the notice for controlling the particular pest animal or weed. Ms Carbines spoke at length about what provisions are in the bill covering failure by people to take that necessary action and also about the notification processes.

The amendments will improve the administration as well as the enforcement of the act and allow for earlier and more targeted interventions in relation to the control of weeds and pest animals. This bill is really about ensuring we are able to easily identify where the problems are — whether it is an individual landowner who has the responsibility for undertaking an eradication or whether it is a community responsibility — and it also provides extra power and authority so that we can ensure the necessary actions are taken and enforced.

This is a very good bill. It will mean that noxious weeds and pest animals will be eradicated and taken out of the environment, meaning we will have a better environment for us all to enjoy. The bill deserves the support of all members of this chamber, and I commend it to the house.

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

Ayes, 21

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

Noes, 17

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

Pair

Somyurek, Mr	Hall, Mr

Amendment negatived.

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 interrupted pursuant to sessional orders.

Sitting continued on motion of Mr LENDERS (Minister for Finance).

SURVEILLANCE DEVICES (WORKPLACE PRIVACY) BILL

Second reading

Debate resumed from 13 September; motion of Hon. J. M. MADDEN (Minister for Sport and Recreation).

Hon. C. A. STRONG (Higinbotham) — In rising to speak on the Surveillance Devices (Workplace Privacy) Bill, at the outset I indicate that the opposition supports this very short bill of only five pages. It is specific in its purpose, which is just one very simple thing — that is, to amend the Surveillance Devices Act 1999 to prohibit the monitoring of staff in workplace bathrooms and change areas.

We all understand that everywhere we go these days we are under some sort of surveillance. When we go out into the street, there are surveillance cameras there, when we go into the shops, there are surveillance cameras there, and when we go into supermarkets we

are under surveillance to ensure that we are not stealing things or otherwise breaking the law. Whether we go to airports or all sorts of other places, there are surveillance cameras everywhere. The surveillance cameras have proved to be extremely effective in deterring criminals and they also seem to be remarkably effective in assisting with apprehending offenders if some crime is committed. We are under constant surveillance, optical surveillance perhaps more notably, but in many cases we are under audio surveillance as well. That trend has been increasing and will continue to increase over time.

Surveillance activities are regulated by the Surveillance Devices Act 1999, to which this bill makes very specific amendments. Those amendments are made to ensure that we cannot be under surveillance in workplace bathrooms and change areas. In other words, if anyone wants to plot some sort of bombing, they should go into a bathroom as they will have a much better chance of getting away with it than they would if they did so in a hall somewhere!

Honourable members interjecting.

Hon. C. A. STRONG — If anyone is plotting to commit some robbery, they should go into the toilet and talk!

Honourable members interjecting.

Hon. C. A. STRONG — It is something that we perhaps should not advertise overly to the criminal class — I am sure people can find places to plot other than in workplace toilets and bathrooms! The current act does in fact provide for what is included in the bill, because it has a prohibition on surveillance of private activities without the agreement of the individuals involved. In other words, under the current act it is illegal to carry out surveillance in such workplace toilets and washrooms et cetera unless employees agree to that surveillance for their protection — for example, against being molested in the toilet — or for some other reason. This bill prohibits such surveillance except under certain circumstances.

Understandably there are certain exemptions. Such surveillance is prohibited except in accordance with a warrant, emergency authorisation, or a corresponding warrant or corresponding emergency authorisation — in other words, police and other law enforcement officers, including those from the Office of Police Integrity, can apply for a warrant to install monitoring equipment in a workplace bathroom or washroom area.

We are ever mindful of the issue of terrorism, which is everywhere. The commonwealth act contains an exemption that provides for the monitoring of areas for particular security reasons. There is also an exemption in relation to the Liquor Control Reform Act, because in many cases when there is alcohol involved and there is the potential for drug use in the washrooms of hotels, nightclubs or other licensed premises, it is often one of the conditions of the licence for the premises that those areas be put under surveillance to protect people from what might happen in washrooms if alcohol and drugs are present. In essence that is what the bill does. It is a fairly simple bill, and it does not really change much. It gives added security and provides little havens for people to conspire in without being under the surveillance we are all under. The opposition has no problem with that bill. We support it and urge other members to support it.

Hon. W. R. BAXTER (North Eastern) — I find it really sad that we live in a society where it has become necessary to have surveillance cameras in public places, whether it be to guard against theft and vandalism or, as Mr Strong suggests, the plotting of ulterior activities. But it is a fact of life that we do live in that sort of society and that the technology exists for surveillance to be conducted covertly as well as overtly.

Notwithstanding the possibility of people plotting in the washroom to blow up a building or conduct some sort of terrorist activity, to take Mr Strong's example, I honestly believe citizens ought to be entitled to use a toilet or washroom without being covertly observed, either directly or at a later time on videotape, and that they ought to feel confident they can do so. To that extent I am not displeased with the legislation because in terms of sheer decency people should surely expect and be entitled to privacy. I am somewhat surprised that the original act got through without anyone making that observation. I do not know whether the original act was intended to be as expansive as it turned out to be, but I am pleased the Law Reform Commission recommendations are now embodied in this legislation.

Presumably in installing surveillance devices most employers are not doing it for the purpose of detecting the plotting of some sort of illegal activity which will affect a party other than the employer. They are installing devices more as a means of cutting down on pilfering and theft, either of workers' personal effects by other employees or, more particularly, of the goods that are contained within the workplace which belong to the employer and may be used as part of the manufacturing process or whatever work is executed at that location. I think that is the main reason that surveillance devices are installed in workplaces. It stands to reason, then, that those sorts of goods are not going to be installed in washrooms or toilets in any

event, so it seems less necessary to have them in those situations.

As has already been noted, the bill contains provisions to enable the Office of Police Integrity to execute a warrant to conduct surveillance. That is a useful addition to the bill. It means that if surveillance is to be conducted in what are otherwise private spaces, it is only to be done for some cogent reason.

There is also an exemption for persons engaging domestic staff in their homes to look after children and so on. I am not familiar with people installing surveillance devices in those circumstances, but presumably some do, otherwise this sort of exemption would not be included in the legislation. That is fair enough, but people dealing with children is an entirely different circumstance to that of employers dealing with workers of an adult age in the workplace. Like Mr Strong, The Nationals have no objection to the bill. We think it is an appropriate provision, and we are pleased to support it.

Ms MIKAKOS (Jika Jika) — It is with great pleasure that I rise to speak in support of the Surveillance Devices (Workplace Privacy) Bill, which is another example of how the Bracks government is legislating to improve the lives of Victorian working people. Rapidly changing technology has meant that employees have an unprecedented ability to monitor the activities of their employees. Optical surveillance and listening devices are now not only smaller but cheaper, easier to use and more commonly available. This has gone hand-in-hand with an increased awareness among employers of workplace theft and safety issues, which can have a considerable impact on the business bottom line. Therefore, it is timely that we as a Parliament provide clear parameters to the community and employers as to what sort of workplace surveillance is acceptable and what is definitely out of the question.

Clarity and a consistent approach have been the hallmarks of the Bracks government's approach to law reform. That is why the Attorney-General asked the Victorian Law Reform Commission to look into the issues of workplace privacy. The Law Reform Commission in its October 2004 report provided a number of recommendations, some of which have been utilised in developing this particular legislation. I want to say at the outset, however, that the government is considering all of the other recommendations of the Law Reform Commission as the basis for developing a more comprehensive workplace privacy regime in Victoria. However, we are at the same time wishing to achieve national uniformity and national consensus on this issue. It is for this reason that the Attorney-General in the other place, Rob Hulls, has sought to put this issue on the agenda of the Standing Committee of Attorneys-General.

The bill seeks to legislate in one particular area and take up one particular aspect of the Victorian Law Reform Commission's report — that is, in relation to the monitoring of workers in workplace toilets, change rooms, washrooms or breastfeeding rooms. These rooms are, by the very nature of the activities that occur in them, private. No work is being conducted in them, and it is clearly unacceptable to the community for an employer to be able to monitor workers conducting private activities in those rooms.

The bill seeks to legislate to ensure that a loophole in the Surveillance Devices Act, which currently prohibits the surveillance of workers engaged in private activities, is closed so that employers are not able to get around the prohibition by asking employees to consent to surveillance in such areas. The very nature of the work relationship would make it difficult for workers to withhold their consent even if they wished to do so.

The definition of 'worker' introduced in this bill is very broad. It seeks to include independent contractors and unpaid volunteers. The bill recognises that there may be circumstances where surveillance should be able to be conducted and makes specific provisions for surveillance to be undertaken in accordance with a warrant, emergency authorisation, or corresponding warrant or emergency authorisation, a law of the commonwealth — for example, it may apply in relation to matters of national security — or the terms of a liquor licence issued under the control of the Liquor Control Reform Act 1998.

I agree with Mr Baxter that it is sad we have come to a stage where this type of surveillance is occurring. I can assure him that instances have been documented of where such surveillance has taken place. In the *Geelong Advertiser* of 26 July 2006 a story appeared about employees at the Rookery Nook Hotel making allegations of and being concerned about having found a camera in the change rooms of the hotel. The owner of the premises, the employer, in fact admitted to the same in an affidavit to the court. Clearly this is a recent, documented example of these types of unacceptable practices.

Hon. W. R. Baxter — What was the reason he gave for having it there?

Ms MIKAKOS — He said he was concerned about staff stealing. He claimed he was not able to get the camera to work, so hopefully in that instance the

employees did not have their private activities filmed. Nevertheless, as is apparent from the newspaper article, it made the employees feel violated. They felt very offended and upset that their privacy could be breached in circumstances where they were showering or changing their clothes. Sadly, there are instances of these types of activities occurring. That is why we are legislating to ensure that employers cannot undertake such activities or cannot compel employees to consent to such activities taking place.

The legislation is another example of how this government is working towards putting in place legislative protections for Victorian workers and their families, and builds upon many other areas where it has already legislated to protect the interests of Victorian workers and their families. I think the government has an exemplary record in this area.

While I am very pleased that the opposition and The Nationals are supporting this bill, I contrast that with their record in many other areas that relate to workers' rights and conditions, in particular their support for the so-called WorkChoices legislation of their federal colleagues, which has been the most radical attack on the rights and entitlements of Australian workers. Their support for that became very apparent most recently in a debate in the other house on a motion moved by the Minister for Industrial Relations.

The shadow Minister for Industrial Relations said that the Liberal Party was standing 'shoulder to shoulder' with Prime Minister John Howard on the WorkChoices legislation. In the coming weeks and in the lead-up to the state election we will be working very hard to make sure Victorian families and Victorian workers are very much aware of the opposition's position on this issue and other legislation over the past seven years.

I am particularly proud of the fact that the Bracks government has, for example, moved to establish the workplace rights advocate to provide advice and support to private sector workers who come up against the so-called WorkChoices legislation; that we have reformed 20-year-old occupational health and safety laws, which the opposition voted against; that we have moved to protect outworkers and ensure they receive their award entitlements, which again the opposition voted against; and that we have provided an award safety net which includes compensation for long working hours or antifamily hours, which again the opposition opposed.

Being pro-family and pro-worker is more than just rhetoric for this government. It is about putting in place legislation which seeks to improve and protect the lives of Victorian workers and their families. I am very proud that the government has introduced the bill before us today. It builds on a raft of legislative reforms, some of which I have touched on, which protect Victorian workers — and in this case this bill protects their fundamental right to privacy. I commend the bill to the house.

Hon. J. H. EREN (Geelong) — Like previous speakers I am pleased to be speaking in support of the Surveillance Devices (Workplace Privacy) Bill. This bill does exactly what it says. It is about the privacy of people in the workplace. It is about treating workers with dignity and decency. I will outline the intent of the bill, which is clear. I will not be very long because it is a brief bill.

I must say that I have had phone calls and emails from my constituents asking when such a bill would come before Parliament because they have concerns about their privacy at work. I am sure those people will be very pleased that we have listened to and acted on their concerns. This bill is yet another indication of the Bracks government's commitment to decent working conditions designed to protect Victorian workers.

The bill is also a response to the Victorian Law Reform Commission's 2005 report on workplace privacy. That report found that workplaces are not covered by legislation to guide workers and employers about privacy issues. With the rapid advancement of technology and changing workplace practices employers now have much more access into workers' lives than ever before. The law must keep pace with these changes to protect workers from unscrupulous employers who like to spy on workers.

Having said that, I know that the majority of employers do the right thing, but there are a few who do not. The previous speaker quoted from an article written by Daniel Breen which appeared in the *Geelong Advertiser*. It reported that in Wye River hotel workers were spied on in showers and changing rooms. Former Rookery Nook Hotel employees Kylie Millar and Patrick Shannon claimed that there were hidden cameras in their changing rooms and showers. Obviously this does happen. It has happened. Ms Millar was quoted as saying she could not get over the fact that this person had intentionally put a camera there. She said it was disgusting.

It is good to see that the hotel closed for a week after the staff walkout and many Wye River residents have continued to avoid drinking there since it reopened. That is an indication that these sorts of things are clearly not in line with community expectations,

specifically the surveillance of workers in private areas such as toilets, changing rooms, lactation rooms and washrooms. These are areas where all workers should be able to expect privacy. Therefore this bill implements one of the key recommendations of the Victorian Law Reform Commission's final report on workplace privacy by prohibiting practices such as these.

I have spoken on many occasions in this place about the unfair WorkChoices legislation brought in by the federal government and the pressure that is being applied to workers by that legislation. WorkChoices has changed the nature of the work relationship between employer and worker — —

Hon. C. A. Strong — On a point of order, President, I draw your attention to the fact that this bill deals specifically with surveillance devices in certain work environments and the member's speech is straying into federal government legislation. I ask you to draw him back to the bill.

The PRESIDENT — Order! The lead speaker for the government strayed in that direction but does have a bit of leeway. I ask the member to come back to the bill.

Hon. J. H. EREN — There is a link to this later on in my contribution. It is linked because it revolves around industrial relations. The point I was making was that some of these relationships have been strained due to the changes in industrial relations federally, and it may be difficult for workers to withhold their consent if they wish to object to being spied on but are in fear of possibly being sacked. That was my point. This bill specifically removes the ability of employers to place workers under surveillance in private workplace areas with or without the consent of the worker. I understand that initially there was some concern that WorkChoices legislation may have prevented the introduction of this bill, because it seemed to attempt to cover the field of industrial relations regulation. The Solicitor-General has obviously advised that there is a good argument that this bill does not regulate the relationship between employers and workers but rather imposes a prohibition on employers alone.

I am informed that the Attorney-General has written to the federal Minister for Employment and Workplace Relations, Kevin Andrews, requesting that the commonwealth enact a regulation to exclude workplace privacy from the coverage of WorkChoices in order to remove any doubt about this issue and to avoid potential litigation over constitutional technicalities. The decent thing for the federal government to do in relation to this issue is to enact the regulation immediately to eliminate completely the possibility of any challenges to this commonsense piece of legislation. Having said that, I can also say that there is obviously a sense of urgency about having this bill passed not only to protect the working community from such employers, as I highlighted earlier, but — —

Hon. W. R. Baxter — The Victorian Law Reform Commission's report came down two years ago, so the government has not acted too urgently!

Hon. J. H. EREN — We have under the circumstances, Mr Baxter. The legislation is before the house now so it is important to maintain the momentum of the commission's report — and let us not forget the important intent of this bill, which is to protect the rights of workers in private areas.

As I said before, this is a commonsense piece of legislation. We understand that there need to be certain exemptions from this bill to provide a sense of balance. Those exemptions relate to permitting surveillance to be conducted in accordance with a warrant or an emergency authorisation, in accordance with the law of the commonwealth or in accordance with the requirements of a liquor licence. I think the bill provides balance in terms of the interests of the community and national security. It is a good piece of legislation, and I commend it to the house.

Hon. B. N. ATKINSON (Koonung) — I had not intended to participate in this debate until I heard the two speakers from the government who tried to make this piece of legislation a springboard to criticise WorkChoices.

Hon. W. R. Baxter — That is drawing a very long bow!

Hon. B. N. ATKINSON — Absolutely. They also attempted to use this legislation to try to characterise the opposition's views on a range of legislation as being anti-worker or anti-employee, which is an absolute nonsense. The reality is that the bill before the house is a very narrow piece of legislation that enjoys the goodwill of all sides of the house. The contributions that were made by this side of the house, certainly by the opposition and by Mr Baxter, were generous in respecting the legislation that was brought forward, notwithstanding, as Mr Baxter said, that the government has taken an inordinate amount of time to bring this legislation to the Parliament, which contradicts the position that was put by Mr Eren in his speech.

The reality is that this legislation is important, which we support wholeheartedly, because privacy is an increasingly important issue for the community. In this instance tackling workplace privacy in the circumstances outlined in the legislation — and I do not intend to revisit all of that ground — is obviously of importance to us and to all fair-minded people.

The behaviour that was referred to in Mr Eren's speech is absolutely outrageous and inexcusable. From that point of view the full force of the law ought to be used against anybody who is so exploitative of people's privacy as they were in that situation. There is absolutely no doubt that this legislation deserves support. But when it comes to trying to use this as a springboard to mount an argument against federal legislation, which in no way impeded this legislation coming before the house at an earlier time or impeded the jurisdiction of this Parliament to introduce and pass legislation or anticipate any of the clauses and penalties that have been included in the legislation, to be saying that WorkChoices in any way had an effect on this legislation, or indeed delayed it, is absolute nonsense.

It is political propaganda at its absolute worst. I can also say, given the remarks made by Ms Mikakos, that some of the legislation she mentioned that the opposition has opposed over the course of this Parliament had not been opposed in its entirety. We have not opposed all aspects of that legislation. We have supported many of the initiatives brought forward in that legislation. As I have said many times in this chamber, and I know many of my colleagues share that view very strongly and have also said it in their contributions, there is no way the opposition ever supports the exploitation of people in the workplace.

The opposition recognises, as a couple of speakers have said — and Mr Eren acknowledged this — that most employers are out to do the right thing. They are not trying to do the wrong thing in the pursuit of their activities. Recently when I have spoken to small business organisations I have pointed out to them that much of this government's legislation and its behaviour in policing that legislation appears to be based on the fact that there is a view amongst many people in the Labor Party that all employers are seemingly out with some sort of enthusiasm to cheat their customers, to sack workers because of some bizarre fetish, to certainly injure their workers in situations, to avoid paying tax and to simply be undertaking their activities for the joyous purpose of filling out government forms. The government does not get what business is all about, and it does not understand that most people in business are very keen.

Ms Mikakos — On a point of order, President, given the ruling you made earlier in relation to Mr Eren's contribution, and the fact that Mr Atkinson has now strayed from the bill for quite a considerable time — I did make some brief comments in passing, Mr Atkinson — I ask that you bring Mr Atkinson back to the bill.

Hon. B. N. ATKINSON — On the point of order, President, the material ought not to go unchallenged. I would not have participated in this debate at all had it not been for the fact that two government speakers raised these very issues to which I am referring. I would prefer not to have — they have nothing to do with the legislation — but the reality is that two government speakers entered this debate and I am simply rebutting it.

Hon. W. R. Baxter — On the point of order, President, I believe Mr Atkinson is entitled to rebut the comments that were made, particularly those made by Ms Mikakos. I have to say that when Ms Mikakos commenced, I was staggered by her remarks, because Mr Strong and I had generously accepted this legislation at face value. It never occurred to me for one moment that Labor would try to connect it with WorkChoices, yet Ms Mikakos went on at length, alleging that the opposition had opposed various pieces of legislation to do with workers. I think Mr Atkinson is fully entitled to rebut the misleading contribution made by Ms Mikakos.

Mr Viney — On the point of order, President, Mr Atkinson did have 5 minutes-worth of rebuttal to passing references by Ms Mikakos and Mr Eren. In the second case you asked Mr Eren to come back to the bill, and Mr Atkinson has now strayed beyond discussion of WorkChoices and is attacking government policy on business. This is certainly straying a very long way from the legislation.

The PRESIDENT — Order! There had been one point of order raised about Mr Eren, and I called him back to the bill. In his opening contribution Mr Atkinson said he was doing it on the basis of the contributions made by members of the government. I will give him the same ruling I gave then — that is, to come back to the bill.

Hon. B. N. ATKINSON — There is little to be said on the bill because everybody is of one accord on this legislation and recognises that it is quite important and ought to be supported. The issue is that two government members strayed from the bill and introduced other material which had absolutely nothing to do with this legislation. In fact Mr Eren suggested that the federal

WorkChoices legislation had in some way impeded the passage of this bill, and that is an absolute untruth. The fact is that the federal WorkChoices legislation had absolutely nothing to do with it.

Mr Viney — On a point of order, President, you have just given a ruling asking Mr Atkinson to come back to the legislation, but he is clearly defying your ruling. I suggest you ask him to come back to discussion on the bill or to stop talking.

The PRESIDENT — Order! I ask Mr Atkinson to come back to the bill, which relates to surveillance devices and amends the Surveillance Devices Act 1999.

Hon. B. N. ATKINSON — I am quite happy to be sat down on this because, frankly, I am talking about the bill, because Mr Eren said in his charge in this place that the piece of legislation we are considering was not able to be introduced earlier and was impeded by the federal government's WorkChoices legislation. That is what he said, and I think I am perfectly entitled to rebut that outrageous proposition. I do not see how in any way that is straying from discussing this legislation. The federal government's WorkChoices legislation is apposite to this legislation, and a lot more apposite to this legislation than any of the material other speakers used in their contributions to the debate.

The fact is that they went on and raised a catalogue of legislation that we were supposed to have opposed for some political purposes when in fact they were taking it totally out of context and exploiting this important legislation for outrageous political purposes. The record will reflect badly on those two members for their contributions, and it will also reflect rather badly on Mr Viney for trying to shut up a proper rebuttal of legislation.

Motion agreed to.

Read second time.

Remaining stages

Passed remaining stages.

SENTENCING (SUSPENDED SENTENCES) 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.

JUSTICE LEGISLATION (FURTHER AMENDMENT) 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.

CRIMES (SEXUAL OFFENCES) (FURTHER AMENDMENT) 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.

STANDING ORDERS COMMITTEE

Review of standing orders

Mr LENDERS (Minister for Finance) — I move:

That —

(1) the draft standing orders, recommended by the Standing Orders Committee in its final report on a review of the standing orders, August 2006, be adopted as the standing orders of the Legislative Council; and

(2) the new standing orders come into operation on the first sitting day of the next Parliament.

I have great delight in moving the motion in my name, which is on the notice paper, to adopt the report of the Standing Orders Committee. It would be churlish, when the motion is in my name, to do anything but to acknowledge that this has been the work of a committee of seven members of the Council. The work has been most ably supported by the Clerk and Assistant Clerk of Committees, to get a product before the Council which has virtually unanimous support. There are two issues which I will deal with on which there was not agreement.

What I would like to dwell on first is the extraordinary agreement that has been achieved. I do not want to underestimate that. We can talk very glibly about things being agreed. Seven people sat around a table and had a lot of very different views. The extraordinary thing throughout the large number of meetings held was the apparent willingness and effort to try to find areas of common agreement. The members of the committee cast their minds forward to what this chamber would

look like in the next Parliament under a new electoral system. We tried in our own various ways to come up with a system we thought would suit that best. We started by incorporating the existing sessional orders, the existing standing orders and a number of other items together into one document.

The sessional orders were originally adopted in quite a controversial fashion in this change. There was a robust debate back at the start of this Parliament. There were two iterations of it. One of them had government and The Nationals support and two of them were government only and not supported by either of the opposition parties. There have been a number of further changes in that incorporation, but essentially other than the two contentious issues, which are the government business program and time limits, they have been modified, enhanced and brought into line with the standing orders.

A number of additional items were added that had not been dealt with previously. For example, we dealt with how long the bells should ring when there is not a quorum. It sounds minor and technical, but it was an issue that the Leader of the Opposition drew to the attention of the committee. It was a problem, and in adjusting it there was a discussion as to what would be an appropriate solution. We also dealt with what should happen if an absolute majority has not been achieved and the bill has been passed, how do we deal with that. We dealt with the issue of the removal of a casting vote for the President in the new Parliament. We dealt with the issue of what happens to the Deputy President.

We dealt with some of the language issues. I personally did not like the language that said the Governor would command that we consider something. We have now changed the language because of that foible of mine so that the language is now that the Governor requires us to do something. They are illustrations of a range of things, some of them major and others not, that were dealt with by the committee in forming the proposal to reform the standing orders.

We also dealt with what should happen if the house sits on a Friday. One of the things that I argued for strongly when the original sessional orders were adopted was that rather than this house sitting until 3.00 a.m. or 4.00 a.m. if it ran out of time for business, it should sit on a Friday. The only mechanism for that was to have a government business program. We also now have a secondary mechanism for the house to sit on a Friday if need be.

For several meetings of the committee we had a great argument about whether there should be a question time or not when the house sat on a Friday. I am not quite sure how the opposition parties convinced the government — we acquiesced to their requirement — to say that if the Parliament did sit on a Friday there should be a question time. As a government our starting point was that if Parliament was sitting on a Friday that was in lieu of sitting until 4.00 a.m. and we should not have a question time. However, the opposition and The Nationals very eloquently convinced us that that was an appropriate thing to do. It is an indication of how the committee came from starting positions — sometimes they were philosophically different positions but maybe it was like the hostages in a hijack in that we wore each other down or it may have been because reason prevailed — but in the end came up with a document that with two exceptions everyone agreed on.

The last minor item I will talk about concerns something as basic as describing a session. We have the situation currently in the Parliament where we cannot refer to the *Hansard* of the same session. A session lasts for four years. In the proposed standing orders we have changed the period to be the last six months.

The biggest one of the new items is the Legislation Committee. We have discussed that here and we have trialled it. Churchill once described democracy as the worst form of government except for all the rest, or in similar terms. I think our Legislation Committee is the worst form of scrutiny except for all the rest. We have come up with something, and we have tried it. It is a remarkably complex new area, but the seven members of the committee were able to agree on a format to put forward. That is an example of how the committee has generally worked together well in trying to find solutions. We on the Standing Orders Committee — you, President, Mr Philip Davis and Mr Forwood from the Liberal Party, Mr Bishop from The Nationals, and Mr Viney, Ms Romanes and me from the government — probably collectively deserve to pat ourselves on the back.

There is disagreement in two areas. I will not dwell on them because we had the argument in committee for ages and ages. For the record, the first item of disagreement is time limits. Without reiterating the argument we had in February 2003, when the house argued it robustly, from the government's perspective time limits are appropriate. We feel an appropriate balance is achieved by the lead speaker for the opposition having an hour, by other speakers having 15 minutes and by having no time limits in the committee stage. If a person cannot articulate their argument well in that time then in a sense that is a problem with the person needing to be more articulate than the institution having to listen to long, rambling

speeches. I will not go on for long — I have been talking for 6 minutes, and I will go on for about 2 minutes more to prove my point — but that is an area of disagreement.

But I say again, in the spirit of the way the committee was run, the government conceded to the argument from the opposition and The Nationals, that if you are going to have the dreaded time limits — without conceding anything on the merit of time limits — then we should at least remove the situation where some people have a 15-minute time limit, some have 10 minutes and some have 5 minutes. While the opposition might think they do not want time limits per se, we have tried to reach agreement where we can.

I could not help but mention in passing, although it does not sound too bipartisan, that in the 150 years of this house the first time limits were, I believe, introduced by Mr Forwood in the last Parliament — but it would be churlish of me to digress on that point.

The other area where there is strong disagreement concerns the government business program. The government insisted on introducing this program when it first started using sessional orders, but has not presented a business program to the house very often — and probably it has been as a result of persuasion by the opposition. It is not a tool the government has sought to use very often in the last half of this Parliament.

In philosophical terms we believe there comes a time when a government needs to articulate what is important to it and to set a time limit for the house to work around. In the end the program only works if it gets a majority on the floor of the house, so we think it is a good device for the house to use its own judgment in setting time limits for debate. As I said, there was disagreement on that issue. The government has not changed its original view that that is a tool that should be in the standing orders and available if the house chooses to exercise it. The government has not sought to use that device very much in the last half of this Parliament, although in the first few weeks of the Parliament, if I recall correctly, it was something the government sought to do every week. Part of that is as a result of persuasion by the opposition.

This is a good report. It tries to incorporate merging the sessional orders and the standing orders with a range of other issues that the Standing Orders Committee in its wisdom brought forward. There were two areas of contention, but it is good that a committee of the house can get that down to only two areas rather than a whole lot.

I would like to thank the members of the committee and the clerks for their assistance to the committee. They did a lot of work for the committee. I cannot help but recall that they prepared a draft report at one stage which explained all the clauses. The committee did not want them printed because, primarily, I do not think we wanted to spend time at another 20 meetings arguing over why we did things. A lot of very good work was done, and it made our task a lot easier. I commend the standing orders, as proposed, to the house.

Hon. PHILIP DAVIS (Gippsland) — Where to start? We have plenty of time to finish the debate tonight because we have managed to meet the government's aspirations for the legislative program by finishing early in the week.

Hon. Bill Forwood interjected.

Hon. PHILIP DAVIS — Therefore I can, if I choose, reprise the 20 meetings of the Standing Orders Committee that we held, commencing from 1 August.

Hon. W. R. Baxter — You will not be too popular if you do.

An honourable member — Last year?

Hon. PHILIP DAVIS — Yes, it was 1 August 2005. I have to say that if I had been advised about what was involved in coming to a conclusion where all matters but two could be finally agreed between the government, The Nationals and the opposition, I do not think I would have volunteered for the task. As the Leader of the Government said, remarkably we did eventually find areas of compromise on most issues.

The standing orders before the house are really an effort to bring together and consolidate in contemporary language a whole range of matters, and I do not intend to comment further other than to say that the Leader of the Government has given a good summary. But I do want to respond particularly on a couple of points.

The Leader of the Government suggested that the opposition may have worn the government down on some matters. I like to presume that the government realised, as we got closer to the date of the general election, that there may well be a role reversal occurring in 10 weeks, 1 day and 6½ hours, and therefore was more easily persuaded on most issues than it was a year ago when it was vehemently opposing the representations of the opposition at that time on a number of issues. But in any case the government did see the light.

The government has not seen the light with respect to two matters which have been previously mentioned. It is fair to say that the government and the opposition have been consistent for four years on the issue of the government business program and time limits. The opposition has made a case, as it did in regard to the sessional orders debate in 2003, that time limits are an infringement of the rights of members of this place and debilitate the manner of consideration of legislation.

Let me express a personal opinion. Rarely today in this house do we have debate on legislation. What we have is a series of prepared, set speeches that members bring with them into the chamber and, if not read laboriously, certainly use as copious notes — I think that is the guidance from the Chair from time to time. My point is this: that any action on the part of the house collectively, in its wisdom, to so prescribe the way in which matters are debated, including the introduction of time limits, is a significant undermining of the process of proper policy debate.

Unfortunately the Parliament, which should be the fulcrum of policy debate around the legislation that the government introduces from time to time, or indeed legislation introduced by other members of this house, regrettably has been diverted to simply being a place where speeches are delivered which have been prepared for the purpose of circulating to the electorate or some other constituency as if they are the work of the member when in fact in many cases they are nothing more than government advisers' briefing notes. So the notion of proper policy debate — —

Mr Viney — So the opposition doesn't do that? It is only our side!

Hon. PHILIP DAVIS — Mr Viney interjects and asks 'So the opposition doesn't do that?'. I point out to him that the opposition does not have the staff to do it! The reality is that members of the opposition come in here and endeavour to debate the issues. In my view the constraints of time limits are a great disservice to the process of proper debate in this chamber.

More importantly, the opposition has consistently objected to the matter of a government business program. The government insisted on bringing in sessional orders to introduce a business program and for the first two years of this parliamentary term insisted in most sitting weeks on applying the business program. Consistently the opposition argued that it was entirely unnecessary and that the traditions of this house were based on a notion of cooperation between all of the parties present. There had not been the experience previously of a business program being required. We did not see any purpose in it. During most weeks it was not required at all for the government to achieve its legislative objective.

What we have seen as a result of the government desisting from bringing in a business program as a matter of course is that there is a good deal of cooperation between the parties and members of this place to facilitate debate on significant issues which need to be considered by the house and ensure that those issues on which there is no significant policy contention are dealt with expeditiously. Therefore in each sitting week, without a government business program, the government's legislative agenda is dealt with.

In the next Parliament, whichever party forms government, unless it has a majority in this house, clearly it will not have the capacity to introduce a government business program anyway. If it has that capacity — that is, if it has a majority in the house — it will be able to do within the standing orders anything it wants to achieve its legislative objective. That has always been the way.

As far as the opposition is concerned, the point of having a government business program is completely lost and without purpose. It achieves nothing except to provoke discord amongst members because of the government's using its numbers, when it has them, to run untrammelled across the rights of members to fully debate matters of significant public policy.

The purpose of the business program — let me say this clearly — is to gag debate and to not allow members to fully explore all the issues they need to explore. Given that there are time limits in any event, members of this place cannot deal with legislation by way of a filibuster because the time limits in themselves put paid to that. The Liberal members see absolutely no value in the government business program, and for that reason we are opposed to both the time limits and the business program.

In conclusion I make the point that this is a matter that was given full and frank consideration at every stage of discussion of the proposed standing orders. Indeed I refer the house to the appendix attached to the report of the Standing Orders Committee which we are considering, being the extracts from the committee proceedings where attempts were made in the process of adopting the report to further deal with the matters I have raised by proposing amendments to the report to excise the time limits and the business program. Those attempts were unsuccessful at that point, but to give the

house the opportunity to reflect on this issue, I move the following amendment to the minister's motion:

> That in paragraph (1), after 'Legislative Council' there be inserted —
>
> > ', except proposed standing order 5.04 relating to time limits and proposed chapter 11 relating to the government business program'.

My amendment is proposed to deal specifically with those two issues to give all members of the house the opportunity to consider what we see as a substantive matter. It is a pity that we have come to this point, because I am advised that the standing orders of this place have always been revised and adopted in their amended form with a degree of unanimity. I am advised by the clerks, who are the font of all wisdom, that all preceding draft standing orders have been adopted without dissent. However, if the house does not accede to this amendment, we will arrive at a point where the Liberal opposition will oppose the adoption of standing orders on the basis of its dissatisfaction with the matter of time limits and the government business program. I flag that now because I will not seek a further opportunity to speak to that issue.

We have been most satisfied with the conclusions reached on most issues, and I concede that the government did endeavour — as far as possible, I suspect, within the parameters in which the Leader of the Government has to work — to achieve a degree of cooperation, but given that opposition members have opposed both these matters strenuously since they were first introduced in 2003, it would be entirely inconsistent for us not to maintain that opposition.

However, that is not the reason we are opposing the orders governing time limits and the business program. We are opposing them because we do not think they add anything at all to the consideration of legislation. In fact they significantly undermine the capacity of the house to — —

Mr Viney — So if you lose the amendment, you are opposing the standing orders?

Hon. PHILIP DAVIS — That is what I have been saying. I think the house needs to be absolutely clear what it is that the opposition is proposing. The interjection from Mr Viney was intended to elicit clarification that the opposition's position is that it is putting forward an amendment to excise the standing orders relating to time limits and the standing orders relating to the government business program. The amendment therefore, if successful, will mean that the opposition will support the standing orders as presented. If that amendment is unsuccessful, we feel we will have no choice but to oppose the motion before the house to adopt the standing orders.

Hon. B. W. BISHOP (North Western) — I rise to make a small contribution to the debate on the issue of standing orders. I have had a couple of goes at this. I was involved in the one before, when the Honourable Bruce Chamberlain was President, and it was certainly a long-running investigation — —

Ms Romanes — It was even longer.

Hon. B. W. BISHOP — The Ms Romanes was there too, and I think Ms Romanes and I might be the only two left here who were on that particular committee. That was an interesting time as well. It took a while to go through, but we revamped the standing orders that had been in place for some time.

This time it has been a bit different. It was a different task that we were charged with by the house, which was to revamp the standing orders to meet the requirements of two areas: one was the constitution and the other was the make-up of the new upper house. We do not know what the make-up of the new house will be, and I believe during our investigations and our debates in the Standing Orders Committee we were second-guessing a lot of the time as to what would happen when the new house sits in this chamber.

However, like most tasks, I suppose, you get a first major initiative, which was the Legislation Committee. The Nationals were not in favour of it, and the reasons for that were we believed a small group or an individual was unlikely to be on the Legislation Committee, and that was not a fair go. If the committee sat at the same time as the Parliament, it was impossible to be everywhere. Again, we were trying to second-guess the make-up of the new house.

We did understand the advantages that the Legislation Committee would provide to the house particularly with complex bills that took a fair bit of working through. But we believed that on balance that was not the way to go, and that is what we said when we had the debate in the house on the Legislation Committee. When we had that debate there was a different point of view in relation to calling witnesses. However, that is what was in place at the time, and that was the decision we made. However, whilst we were against the Legislation Committee at that time, when it was put into place we gave it a go, and I think it would be very clearly recognised by anyone involved that The Nationals gave it a red-hot go.

The committee was trialled with a couple of quite large and complex bills. The committee, chaired by

Mr Viney, as I understand it turned out to be an informal type of committee, and in fact I suspect it could not have been done any other way as those particularly complex bills were worked through.

We also worked through the other issues in our investigation of what the new standing orders would be, and the Legislation Committee will now sit on Wednesday and Thursday evenings after dinner, if required. When it came to the final run it was interesting to note that when we got to the first bit, the obvious disagreements on behalf of the Liberal Party and The Nationals were over the standing orders governing the government business program and the time limits, which have been talked about by the Honourable Philip Davis. We stuck to that objection all the way through, and so we have the amendment before the house today, which addresses this particular situation and which of course The Nationals will support.

We had some other issues, including the one I mentioned briefly a moment ago relating to the calling of other witnesses to appear before the Legislation Committee, which we felt quite strongly about. We thought there should be enough flexibility to ensure that the Legislation Committee could work through the issues with all the information put before it so it could make the right recommendations when it came back to this house. The report is silent in that area, so I believe we will be able to work through that. Although I will not be here, the house will be able to work through that situation with a bit more flexibility than was first envisaged. In the early stages only the house itself could authorise witnesses to give evidence. That was quite restrictive, so I am really pleased to see that the committee has been given much more scope.

We had good debates about Friday sittings, and ended up saying, in the simplest of terms, that if you are going to have a Friday sitting, it will be a normal sort of day.

The other debate we had, which was quite an extended one, related to the issue of a member of the Legislation Committee not being able to move the same amendments if they came back to the committee of the whole. The Nationals thought that was not on, and we took as hard a line as we could in relation to that issue, and I can give the house some of the reasons. We did not believe it would be democratic if the same member was not able to come back to the committee of the whole and move the same amendments because the Legislation Committee may have a different make up to the committee of the whole.

Again, we are second-guessing what this house might look like. For example, it is not beyond comprehension that you could lose an issue in the Legislation Committee but, if you were good enough, you might be able to win it in the committee of the whole. So we were delighted to see that provision had been removed. There is reference to it in the report recognising that it would not be what you would call accepted practice, but I think it is a step forward for democracy in relation to the rules of this place.

I commend government members for accommodating us as we argued through that particular area. As I said before we started off with two quite definitive disagreements — —

Hon. Bill Forwood — Across a round table!

Hon. B. W. BISHOP — Across a round table, and we have ended up with two definitive disagreements, but we have managed to work through them. I commend government members, particularly Mr Lenders, who was very good at working through the issues; it was a long and difficult task.

I commend the President for her management of the committee, and particularly for her management of Mr Forwood, who was always quite chirpy at the committee meetings. He certainly created some amusement for us as we went through. The President did a good job. She eased us through when we got to the tough spots, and there were some tough spots. I think the morning teas she provided were probably a bit better than the ones we had had on previous committees, although they were a while ago. I thank her for her hospitality. It is not surprising in such committees that we scuffled, wrestled and argued about particular issues, but we got on pretty well at the end of the day when we reached some accommodation, with the exception of the two issues we will soon be voting on.

I give a big commendation to our clerks, Wayne Tunnecliffe and Andrew Young. They put up with a fair bit with us trying to do things which were pretty difficult to write down and manage, but they got through it and did a remarkable job. They were most accommodating of our various wishes and worked through them very well at each meeting.

In conclusion, I think it will be interesting — whilst I will not be here, and probably a number of others will not be here either — to see how right we got it, how it works in the new house and how the structure manages to adjust in relation to the standing orders, which are an integral part of this place and the management of it.

Mr VINEY (Chelsea) — I am very pleased to join in this debate on the proposed new standing orders for the next Parliament. I want to commence by acknowledging the goodwill and work of all of the members of the committee, including my colleagues Mr Lenders, Ms Romanes and yourself, President, in chairing the committee. I acknowledge also the goodwill of the Leader of the Opposition, Mr Philip Davis, Mr Forwood and, from The Nationals, Mr Bishop. I also want to acknowledge the good work of the Clerk and the Assistant Clerk in this process.

Others have spoken in this debate about the ability to achieve the compromise. One version of events put forward by the Leader of the Government was that it was like a hostage situation, and Mr Philip Davis suggested it was because of the closeness of an election. I do not believe it had to do with either of those factors. I genuinely believe there was a lot of goodwill, and I genuinely believe the compromises that were achieved were on that basis.

I interjected during Mr Philip Davis's contribution in relation to his comment that there are too many set speeches in this place. He then appeared to suggest that all of those set speeches were from government members, which I found disappointing because I can recount a number of members on his side making set speeches for their particular constituencies.

Ms Hadden interjected.

Mr VINEY — Don't tempt me, Ms Hadden! My experience in this chamber, having served in the other place, is that there is very good debate in this chamber. There are exchanges across the chamber, which I never saw in the other place. Sometimes I have even seen speeches become almost conversational between one side and the other. There is a good process of debate and consideration of legislation in this chamber, and I think that is healthy. It is healthy because this government has set about making this house a house of review. We have been committed to that.

I see Mr Forwood frowning. Mr Forwood may not agree with the methods by which we are attempting to achieve that, but he has to acknowledge that we have been committed to it, not only in our rhetoric but also in the commitment we have made to making reforms — to the point where those reforms that have taken place in this house are not necessarily to the government's advantage. Mr Forwood would have to acknowledge that the reforms to the electoral process are likely to result in the situation where neither side of politics will always be able to claim a majority in this place. We could have guaranteed a majority in this place in the next term if we had not undertaken the reforms in the way we did.

We are committed to reform, and we are committed to this place being a house of review. One of the examples by which we also demonstrated that commitment was the establishment of the Legislation Committee. I appreciate the work of other members of that committee in that three-month trial, including Mr Forwood, Mr Hall, Mr Brideson on occasions, Ms Lovell, Ms Mikakos and Mrs Hirsh. It was a really interesting process. We talked about this before when we presented our report. It was a very rewarding process whereby we were able to take two pieces of pretty complex legislation, the Disability Bill and the Education and Training Reform Bill, through a very comprehensive review, far in excess of anything that would have been available in a committee-of-the-whole process, and on one occasion a minister from the lower house attended the committee hearing.

The position now proposed by the government, and supported by the opposition and The Nationals generally — given a few concerns they have had which we have tried to accommodate — will greatly enhance this chamber. I believe that this will be regarded as a very significant reform. I believe that in terms of the democratic processes of this chamber, this reform is probably going to be second only to the electoral reform that has taken place. People may or may not agree with that, but in terms of the reform of how this place works, I think it will be regarded in the future as one of the most significant reforms.

It is one, I have to say, that has been pretty close to my heart. It is one that I have been very committed to for a considerable period of time. I would say, as someone who many years ago did not particularly see the relevance of this chamber, that being a member of it may have changed my mind. However, if this chamber is to exist, it has to absolutely be relevant and have a role in the review of legislation — and that is what we are attempting to do in this process.

I appreciate very much the assistance that the government has had and that I, in my role as chair of the trial committee, have had in the process, not only from government members and ministers but from members of the Liberal Party and The Nationals. Incidentally, I think I left Mr Drum out of the list of people I mentioned earlier. He served on that committee as well. Enshrining the Legislation Committee in the standing orders will be a very positive development in making sure that this house will be a house of review into the future and in guaranteeing that

this house will have an ongoing and important role in the legislative process.

I want to deal with the amendment moved by the Leader of the Opposition. In the committee stages the opposition articulated very clearly its opposition to time limits and to a government business program. I expected nothing less than that the opposition would move this amendment in the house. In saying that, I have to say I am disappointed that the opposition is proposing, if this amendment is lost, to oppose the adoption of the new standing orders. I believe that we, on the government side, made considerable accommodation to the concerns of the opposition.

I am not going to go through the processes of the government's internal workings, but I have to say that it was not always easy — and I am sure this was true for the opposition — to convince people who are not members of the committee that what we were proposing in terms of compromise was in the best interests of the democratic process. We had to get through a lot of convincing of people on our own side who had different perspectives and views.

I felt that we had been able to make concessions that addressed the concerns of both the opposition and The Nationals, and that we were able to convince people on our side who were not on the committee that those concessions were in the interests of getting agreement. We were able to say that overall, whilst recognising the opposition and The Nationals objected to a couple of points, we had considerable agreement.

I am disappointed that the opposition will continue to oppose the standing orders, if the amendment is lost, because I think that overall the new standing orders now before the house are a considerable improvement in making this house an ongoing, relevant and modern institution working for the betterment of democracy and the people of Victoria. That is what we are all here to do, and is what I believe the standing orders reflect. We have made considerable progress in a number of areas including time limits. The government conceded on the question of the time limits of 5 minutes and 10 minutes — it is now 15 minutes for all members. We conceded to move a further amendment in the committee of the whole with regard to the Legislation Committee. We even conceded — and I think this is a significant issue — on the question of witnesses in the Legislation Committee. That will now be a matter determined by future members of this house.

I am not wanting to speak out of turn, but during the committee process I recall Mr Forwood asking questions about what we were doing. Mr Davis said, 'Just be quiet and do not say anything'. That was a recognition, at least on the part of the Leader of the Opposition, that there was a considerable concession being made by government members. I hope that the members of the opposition and The Nationals express their views about time limits and the government business program. I think that is absolutely appropriate. I am not concerned about the opposition's proposal to move those amendments and test them in this chamber.

I sincerely hope that if those amendments are lost in relation to the standing orders, there can be full agreement about a recognition being put on the record that the opposition is not happy with those provisions. I am sure those things could be revisited in a future Parliament when or if the numbers change. Because of all the work we have done together and all of the goodwill shown, I hope we can reach a reasonable agreement on the standing orders.

Hon. BILL FORWOOD (Templestowe) — At the outset let me congratulate the Leader of the Government, the Leader of the Opposition, Mr Bishop and Mr Viney for their contributions to this debate.

Mr Viney — And the President!

Hon. BILL FORWOOD — The President has not started yet, I just congratulate the people who have spoken on the debate so far.

When I was appointed to this committee over a year ago, I approached it with a degree of cynicism and suspicion, because I rather thought we were going through the motions of being consulted in a manner that suggested the government would decide what it wanted to do any way. At the outset I congratulate the Leader of the Government for his proposal to fully review the standing orders of this place, which are the rules by which we operate. I congratulate him for the manner in which he conducted that.

I extend congratulations to the President who chaired the meeting and to the clerks who also participated in a proactive and sensible manner. I will pick up on the words of both Mr Bishop and Mr Viney: the spirit with which the committee went about trying to set the rules for the future of this place was exemplary. While we had vigorous differences of opinion — and still do — the house is better for the work that was done in the 20 meetings held over the last year and a half. I am sure the future will be better as well.

I particularly congratulate not just the Leader of the Government but also Ms Romanes, Mr Viney and Mr Davis, my leader, who has a pugnacious approach to some of these things and is proactive when trying to

arrive at accommodations. I congratulate Mr Bishop as well for his contribution.

I will pick up some of Mr Viney's comments on the Legislation Committee. It was my privilege not just to be the deputy chair of the Standing Orders Committee, but my memory tells me that I was Mr Viney's deputy chair as well. As Mr Viney said, the Legislation Committee is one of the significant improvements in the standing orders. I participated in the debates on the Disability Bill, which went for a number of days. I have been in this place for a long time and there has never been a committee stage in which so many people were given an opportunity to tease out the nuances of a complex piece of legislation. That augurs well for the future.

I do of course still choke on my Weeties when I hear the word 'reform' bandied around in relation to the changes the government has made to this place. I acknowledge that when I was the Leader of the Opposition I did institute some minor changes and bring in some minor time limits, the first ones in history, for the smooth running of this place. However, it was never, never my intention that anyone could come along and truncate the right of a member to say what he wished to say. For an example of that honourable members only need to reflect on my contribution two days ago to the debate on the Victorian Renewable Energy Bill. As a former shadow Minister for Environment and shadow minister for energy I had the capacity to expand on some of the nuances of the legislation before the house, only to be shut down after a quarter of an hour.

Mr Viney interjected.

Hon. BILL FORWOOD — Let me pick up Mr Viney's interjection. Now I know why the government brought in the time limits: there can be nothing clearer than that the intention of bringing in the time limits was to stop me having my say!

Mr Viney — Can *Hansard* report laughter?

Hon. BILL FORWOOD — I hope it does. One of the things we were taught early on was to not be ironic in this place because it does not read all that well in *Hansard*.

I am proud of the work that the committee has done. It is a matter of profound regret to me that we were not able to reach complete unanimity of view. I acknowledge the extraordinary lengths that the government went to to accommodate some of the wishes of The Nationals and the Liberal Party in setting the way this house will operate in the future. I pick up Mr Viney's point, that it was not just the committee but the wider government that members opposite had to deal with. I am sure that — to use Mr Viney's words — the significant concessions that were made were hard fought in that arena as well as in the committee. This place is more relevant and better for it.

But, as I said, it is a matter of profound regret that members of the government were unable to come to an accommodation with us on the two outstanding points. I pick up Mr Viney's point again, because I would absolutely prefer that we move our amendments. Once they are lost, I for one would immediately vote for the unanimous adoption of the report, our having made our point. However, as members know, I will be leaving the Parliament soon. To my knowledge I have never deliberately gone against the wishes of our party, other than on a matter of conscience. Our party has made a decision that we will be opposing the standing orders. For that reason, unfortunately I find myself in the position where, while I think it is greatly to be regretted, I will be voting with my party against the adoption of the standing orders. That said, I do think that the work that has been done has produced standing orders which will serve this house well.

As I said, the committee was conducted in an exemplary way, particularly in the work of the clerks, Mr Young — and Mr Tunnecliffe, with whom I have not always in my career agreed, including, I suspect, earlier this week. Their contribution must be acknowledged.

I need to thank Rachel Gatewood for her capacity with the coffee, and particularly with the Danish pastries.

Honourable members interjecting.

Hon. BILL FORWOOD — As my time is about to run out — again! — let me finish by saying that I wish every success to the people who are faced with the task of implementing the standing orders in the future and also those who will make the Legislation Committee the important part of this place that it should rightly be.

Ms ROMANES (Melbourne) — At a social occasion before the 1999 election I met Alan Hunt, who is a former Liberal Party leader and President of this chamber. One of the things he emphasised to me was the importance of the standing orders and sessional orders of the Legislative Council. He encouraged me to get involved in the Standing Orders Committee, which I subsequently did after I was elected. Along with Mr Bishop I was a member of the Standing Orders Committee in the 54th Parliament. That committee undertook the first major review of the standing orders

since 1924. Before the 2002 election this chamber passed new standing orders that introduced more modern, gender-free language and clarity, and incorporated practices from the sessional orders that had become part of the way this chamber operated.

I have also been very pleased to be part of the Standing Orders Committee in the 55th Parliament, which undertook the work that has been the topic of debate this evening. The committee has undertaken considerable activity in a collaborative way. It has produced a report on another review of standing orders that suggests a framework for standing orders that would apply in the Legislative Council during the next Parliament, when its composition might be very different. We have recommended that there be a Legislation Committee to enhance the review function of the upper house.

The work of the Standing Orders Committee was undertaken in a great spirit of cooperation. We thought there had been unanimous agreement to go forward with the proposals that I tabled some weeks ago in this house, with the exception of the two issues — time limits and the government business program. I want to discuss the history of time limits in this house. I draw to the attention of the house that time limits were first introduced in the house by the opposition. I think they were introduced in 2001, during the first term of the Bracks government, when the opposition had control of this house and the numbers were 14 for the government and 30 for the opposition. I think it was under the leadership of Mr Forwood, who was Leader of the Opposition at the time, that the opposition decided to unilaterally and without consultation with the government side of the house borrow various practices of the Senate. It introduced time limits for questions. supplementary questions, members statements, statements on reports, and motions to take note of minister's answers to questions.

The time limits on contributions to the second-reading debate were introduced by the government in the 55th Parliament. The time limits roughly formalised the proportion of time taken by the respective parties in second-reading debates. I remember the approximate times that the opposition and the government used to spend on their contributions in second-reading debates. I remember that well, because I was the Government Whip and was acutely aware of how much time the lead speaker for the opposition took, roughly how much time we on the government side took and how it ran with the subsequent speakers. We formalised that. As a result we have cut out a lot of the long-windedness and repetition but still left enough time, particularly on the opposition side, for speakers to make key points but to be more succinct in what they say. If there is something to be said, there is still plenty of time to say it. Importantly, the government did not extend time limits into the committee stage in this Parliament. That was a deliberate act to reinforce again the review function that is held to be extremely important by all sides of the house.

A lot of work has been done to look at what might be an appropriate revision of standing orders that would stand everyone in good stead for the introduction of the 56th Parliament in the Legislative Council in Victoria. I find it very difficult to understand what the opposition is intending to do, not in terms of its moving of an amendment but the expression of the Leader of the Opposition that, if those amendments were lost, it would oppose the changes.

I thought we had reached a compromise in a spirit of cooperation and agreement about what the committee would set out to do. I find it disappointing that the opposition has flagged it will go in that direction. I therefore urge it not to take that course of action but to continue in that spirit and, even if the amendment proposed by the opposition is lost, to join with the government to vote for the new standing orders for the next Parliament.

Hon. W. R. BAXTER (North Eastern) — I am opposed to this motion on three principles. For a start, I think it is absolutely presumptuous for the 55th Parliament, a few days from being dissolved, to be trying to rule from the grave and telling the 56th Parliament how it is to conduct itself. I think that is even more relevant with the changes that will take place from 25 November. This Parliament thinks it is its right to attempt to dictate to a very new and very changed chamber how to conduct itself. That is the principal reason I am and have always been opposed to this motion, and I have expressed that on earlier occasions.

Ms Romanes — You have to start with something.

Hon. W. R. BAXTER — There is nothing wrong with the standing orders we have, Ms Romanes. The 56th Parliament can certainly get under way with the existing standing orders. They have stood us in good stead for many years, and it is up to that Parliament if it wants to make changes.

My other two principal objections go to the very issues that have been raised by Mr Philip Davis in his amendment. I think time limits on speeches — and I have said this on many occasions before — are absolutely counterproductive. I think Mr Forwood was wrong in introducing them in the limited fashion that he

did in the last Parliament. That simply set the precedent for this government to introduce a whole range of time limits through the Leader of the Government when he first came here. He was a bit of a control freak then. At least if there is one thing he has learnt, it is that he has given way in some of the work the Standing Orders Committee has done in terms of that very complex matrix of time limits that the government imposed at the beginning of this Parliament.

I think a fair look at parliaments where time limits exist would see that speeches, by and large, are of greater length than they are in parliaments and chambers that do not have time limits. Time limits impose a subtle pressure on people to take up all the time that is available to them, whether they need it or not. I have to confess that if I am the lead speaker for my party and I have been allocated 45 minutes, I sometimes feel there is an obligation on me to speak for 45 minutes, even if I do not have the material for 45 minutes without repeating myself.

Then of course it has the corollary that Mr Forwood has just alluded to — you can be well informed on a particular issue but not be the lead speaker and suddenly be cut off at the socks after 15 minutes. It is the antithesis of democracy that we would impose time limits on people when there is no evidence that in the past the system has been abused. There have been few very long speeches in this Parliament in all the time that I have been here, and on the odd occasion there have been, they have pretty much been justified. I saw no reason to introduce time limits, I see no reason to maintain them now and I support the amendment of the Leader of the Opposition.

My third principal objection goes to the business program. All that does is legitimise the use of the guillotine — a tactical and parliamentary device which had never been used in this chamber in 150 years until this government came in and introduced its business program. It is anti-democratic. I do not think it is necessary. The fact the Leader of the Government now does not often introduce a business program at the beginning of each sitting week is indicative to me that he has worked out that it is not necessary. Why then would we formalise it in the standing orders and impose it on the 56th Parliament? It is all entirely unnecessary.

But having said all that, I commend the committee members on the 20 meetings they have had and the work they have put into this. I do not envy them at all; I pay them a great tribute. Mr Bishop used to come back and regale me and my colleagues with all the arguments and the toing and froing that had gone on at the meetings. He never mentioned the Danish pastries; we did not know there was some sort of compensation.

I acknowledge the time and work that was put in by members of Parliament on the committee, by the clerks and by the staff. I appreciate that; I just do not think the outcome is justified at this time.

Mr LENDERS (Minister for Finance) — I will be very brief in my summing up and will really only respond to Mr Baxter; I think I covered the other issues in my initial comments. The first of Mr Baxter's points was that it is presumptuous for the 55th Parliament to try to bind the 56th. Well the 54th bound the 55th by adopting standing orders in exactly the same way. They took effect on the last day of Parliament, as is this proposal. In the end it is the province of the 56th Parliament to vary them if it does not like those that are passed.

Under the old standing orders there was no provision to elect a President, for example, if there was a tied vote. This lets the Parliament start, and if it wishes to adopt new standing orders or sessional orders, it obviously can. We cannot bind our successor; we simply set the rules and it changes the rules.

I make the observation on time limits that seven people spoke and not one of them got to the time limit. I stopped at 9½ minutes out of 60 minutes.

The third and final point I make is on the issue of guillotines. They are seldom used, but a house needs the device. Any of us who are students of history — like me, Mr Viney and others in this place — will know that Senator Wayne Morse of the United States Senate, at 73 years old, had a toilet break and then spoke for 23 hours on a filibuster. That was followed by Senator Packwood, who spoke for 21 hours on a filibuster. Any standing orders that have a device to deal with that are ones that need to be used.

Having said that, I enjoyed Mr Baxter's spirited debate and genuinely appreciate comments from someone with the wisdom of having watched this place for a long time, so I do not take his comments idly. But I want to rebut those three particular points.

I thank members for their contributions to the house and urge support of the report of the Standing Orders Committee. I urge the house to support the report and reject the amendments.

House divided on amendment:

Ayes, 16

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

Noes, 20

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

Pairs

Drum, Mr	Somyurek, Mr
Hall, Mr	Hilton, Mr

Amendment negatived.

House divided on motion:

Ayes, 18

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

Noes, 16

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

Pairs

Hilton, Mr	Hall, Mr
Somyurek, Mr	Drum, Mr

Motion agreed to.

ADJOURNMENT

Mr LENDERS (Minister for Finance) — I move:

That the house do now adjourn.

Planning: Crib Point land

Hon. R. H. BOWDEN (South Eastern) — I seek the assistance of the Minister for Planning in the other place and it is to do with the important provision of suitable land resources and infrastructure capability for the inevitable construction and deliverance of a port in Western Port, and it is often referred to as the port of Hastings.

There is no doubt that as the future approaches, and with the maintenance of Melbourne as a main receiving and export trans-shipment place for goods, the development in Western Port of a deepwater port is inevitable and will take place. The only thing that is not quite clear at the present time is the exact timing of the commencement of the development of that crucial infrastructure, which is important to the Victorian and national economies. For a long period of time a series of parcels of land in the zoning area, principally around Hastings but also other parts of the Mornington Peninsula, with the Western Port area as its focus, have been designated as being for 'port-related use'. That has been the nomenclature.

There is a lot of land designated as expected to be used in the future for infrastructure development for containerised shipping in volume. We are fortunate to be blessed with the deep water that is so necessary for that infrastructure. There are several pieces land which in my opinion must be retained for use in connection with a deepwater port to handle international container shipments. That land is basically known as the Hastings reservations. There is also a large part of land which used to be the site of the old BP refinery and which is now known as Crib Point. In recent months the community has seen in local newspapers various reports that there is interest in changing the zoning to accommodate housing, which I am strongly opposed to. I believe that should not take place.

The action I am seeking from the Minister for Planning is that he make a statement that the land zoned for ports and port-related use in Western Port, especially at Crib Point, will not be rezoned for housing.

Rail: Ferntree Gully station

Hon. B. N. ATKINSON (Koonung) — I wish to raise a matter for the Minister for Transport in another place regarding the Ferntree Gully railway station. I

recently visited the station with Nick Wakeling, the Liberal candidate for the lower house seat of Ferntree Gully, and I know that a week or so before that the Leader of the Liberal Party in another place also visited it with Nick Wakeling.

Mr Lenders interjected.

Hon. B. N. ATKINSON — I note that the minister is belittling the needs of the residents of Ferntree Gully. He believes that whatever proposition I put to the minister tonight would involve a financial commitment that is not warranted for the people of Ferntree Gully. I wonder if he would like to use the public transport system, starting at and returning to Ferntree Gully each day? I wonder if he would be pleased to see the facilities at Ferntree Gully. I invite the Minister for Finance to join either me or Mr Wakeling in visiting the Ferntree Gully station so that he can ascertain how serious the situation is. Perhaps he could also impose on his colleague the Minister for Transport to attend the station as well.

There are a number of premium stations spread around the metropolitan network but Ferntree Gully is not one of them. The reality is that some people who use the station engage in antisocial behaviour. I observed a couple of incidents in the time I was there on my most recent visit, and I have been to the station a number of times previously. The problem is obvious. It is not a manned station, the lighting is inadequate and the ticket machines are outside the platform area, as is the case with quite a number of stations around the metropolitan system. The volume of customer traffic at Ferntree Gully station means it warrants some attention. I seek that the minister prioritise the designation of Ferntree Gully as a premium station and deliver an improved and manned service there as quickly as possible.

Carers: community residential unit abuse

Hon. ANDREA COOTE (Monash) — I raise a matter for the attention of the Minister for Community Services in another place. Last Thursday I attended a meeting for carers in Epping. The forum was arranged by Christine Stow. The Liberal candidate for Yan Yean, Anita Ivonosky, was also in attendance. Many carers spoke at that meeting, and their contributions were both poignant and uplifting. These carers are an example for all of us.

Question time was lively and interactive, but Danielle Green, the member for Yan Yean in another place, was well and truly out of her depth. She had been given a prepared speech by the Department of Human Services (DHS) and she stuck to its rhetoric. During question time a mother, Shirley Curry, whose disabled son lives in a community residential unit, raised a matter of grave concern. I admire her courage in bringing the very personal details of her son's treatment into the public arena.

Less courageous people would have been intimidated by the DHS, but Shirley spoke on behalf of other people in similar situations. Other parents attending the forum echoed Shirley's concerns and examples, as did many of the emails I have since been sent on the same issue. For example, I had an email from another mother, who wrote:

> I respectfully request an inquiry or review of safety issues regarding disabled people who are under the care of the Department of Human Services, and I further urgently request that steps be taken to permanently protect my son, and other residents, from mental, physical and sexual abuse in CRUs.

The story of Shirley Curry and her son is protracted and very disturbing. She collected her son one weekend from his community residential unit and found cigarette burns on his back. She reported this to her regional DHS manager, and this took place over two years ago. She also reported her concerns to the Sunbury police. Eventually she was shunted off to the Mill Park police, but not before the case had been assigned to a private forensic investigator. Initially this investigator was open and transparent with Shirley and admitted there was a case to be answered, but after some time he clammed up. This has gone on for over two years.

Shirley has been to the Ombudsman, and a 400-page document has been prepared, but the Ombudsman has only been given a summary, as indeed has Shirley. It is just not good enough. The member for Yan Yean promised Shirley she would do something about it, and I certainly hope she will do that. I ask the Minister for Community Services to direct her department and those associated with this case to release the 400-page report to this boy's family and to act on its recommendations immediately. This is an unacceptable situation full of secrecy and obfuscation, and Victorians are justifiably shocked and horrified.

Responses

Mr LENDERS (Minister for Finance) — Mr Bowden raised an issue for the Minister for Planning in another place regarding the port of Hastings. I will certainly refer that to the minister for his attention.

Mr Atkinson raised an issue for the attention of the Minister for Transport in another place regarding the Ferntree Gully railway station. He had to mention that

he was standing by a Liberal candidate, so you have to wonder whether he was raising the matter for himself or for the Liberal candidate. I will certainly pass that matter on to the Minister for Transport for his attention.

Mrs Coote raised an issue for the attention of the Minister for Community Services in another place regarding carers in Epping. Again, I will certainly pass that on to the minister for her attention. But again, I cannot help but comment that her request was a bit like a set piece insofar as the instant the member raised her matter, she mentioned a Liberal candidate and had a go at a Labor person. Nevertheless, I will certainly take on board her sincere request for the Minister for Community Services to respond to the issues that she requested.

Motion agreed to.

House adjourned 6.43 p.m. until Tuesday, 3 October, at 9.30 a.m.