PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-FIFTH PARLIAMENT

FIRST SESSION

Tuesday, 18 July 2006

(Extract from book 9)

Internet: www.parliament.vic.gov.au/downloadhansard

By authority of the Victorian Government Printer

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Parliamentary Services — Secretary: Dr S. O'Kane

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FIFTY-FIFTH PARLIAMENT — FIRST SESSION

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Hirsh, Hon. Carolyn Dorothy [1]	Silvan	ALP	Vogels, Hon. John Adrian	Western	LP

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

[2] Ind from 7 April 2005

[3] Ind Lib from 30 November 2005

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TUESDAY, 18 JULY 2006

Tuesday, 18 July 2006

The PRESIDENT (Hon. M. M. Gould) took the chair at 2.03 p.m. and read the prayer.

ROYAL ASSENT

Messages read advising royal assent on 20 June to:

Appropriation (2006/2007) Act
Appropriation (Parliament 2006/2007) Act
State Taxation (Reductions and Concessions) Act
Transfer of Land (Alpine Resorts) Act
Victoria Racing Club Act.

ACCIDENT COMPENSATION AND OTHER LEGISLATION (AMENDMENT) BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Mr LENDERS (Minister for WorkCover and the TAC).

LAND (FURTHER MISCELLANEOUS) BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. J. M. MADDEN (Minister for Sport and Recreation).

CHARTER OF HUMAN RIGHTS AND RESPONSIBILITIES BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. J. M. MADDEN (Minister for Sport and Recreation).

ELECTORAL AND PARLIAMENTARY COMMITTEES LEGISLATION (AMENDMENT) BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. J. M. MADDEN (Minister for Sport and Recreation).

LONG SERVICE LEAVE (PRESERVATION OF ENTITLEMENTS) BILL

Introduction and first reading

Received from Assembly.

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

GAMBLING REGULATION (FURTHER MISCELLANEOUS AMENDMENTS) BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. J. M. MADDEN (Minister for Sport and Recreation).

HEALTH LEGISLATION (INFERTILITY TREATMENT AND MEDICAL TREATMENT) BILL

Introduction and first reading

Received from Assembly.

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

QUESTIONS WITHOUT NOTICE

Our Environment Our Future: renewable energy

Hon. PHILIP DAVIS (Gippsland) — I direct a question without notice to the Minister for Energy Industries. Yesterday the government announced its renewable energy policy or the Victorian renewable energy target. Despite claims by the government of a low initial impact on retail electricity prices, it is a fact that progressively retail electricity prices will rise significantly as the policy is implemented. Consumers will effectively be taxed through transfer pricing to subsidise the profits of wind farm developers, offshore investors and merchant bankers. Therefore I ask: will the minister confirm that Victorian households will on average pay at least $60 to $80 per year more for their electricity when this policy has been fully implemented?

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — The answer is no, no and no! The opposition and the opposition spokesperson on this must be very jealous at the moment. The opposition spokesperson must be really, really jealous of this policy that we have put up. Let me tell members, because I expect to get some sensible questions on this policy rather than the one put up by the opposition, that what the opposition suggests is not the view being put out by the industry. We are very confident about the modelling we have undertaken.

Hon. Philip Davis — Are you going to release the modelling?

Hon. T. C. THEOPHANOUS — You get one question. We have said that electricity bills will go up by less than $1 a month for an average domestic household. When that is put in the context that we are talking about a reduction of up to $57 over the next two years in electricity prices, which I announced in this house not so long ago, I think Victorians will be prepared to pay an increase of less than $1 a month in order to get a cleaner environment. We are prepared to test that at the election. We are prepared to go to the election and say to the people of Victoria, given that we have already delivered a $57 reduction in power bills, we think it is appropriate for people to pay up to $1 a month in order to get a new industry, a new development and to address greenhouse gases in this state.

We are not the only ones to support the scheme. I was very pleased today to receive a letter from one of the major industry players, the Australian Gas Light Company, which indicated its support. AGL is a one-third owner of one of the biggest brown coal power stations in the country — it has a one-third stake in Loy Yang A — and a retailer that sells energy to more than 500 000 Victorians throughout the state and a generator. A media release put out today entitled 'AGL encouraged by Victoria's renewable policy' states:

> The Australian Gas Light Company (AGL) said today it was encouraged by the Victorian government's introduction of a renewable energy target saying it would provide a clear signal for investment in this sector.
>
> AGL managing director Paul Anthony said the target set by the Victorian government … was a compromised balance to provide certainty for existing generation investments.

That is what an industry player had to say about our scheme.

Supplementary question

Hon. PHILIP DAVIS (Gippsland) — My supplementary question to the minister certainly relates to his response, although I thought his response was disingenuous, because I was making the point that there will clearly be an increasing price path as the policy is fully implemented, so I ask the minister to come back and reflect on that in particular. I therefore ask: will Victorian electricity businesses and consumers be at a price disadvantage compared with consumers in other states given the Victorian government's unilateral implementation of the Victorian renewable energy target policy?

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — Let me make it clear that the Victorian government is the only government in Australia that has delivered substantial cuts in the price of electricity for both domestic and small business consumers. We are the only state that has delivered those cuts. We did so through effective management of the system, which was left to us in an absolutely parlous state following privatisation by the previous government — without adequate supply, as it had not bought a single piece of new generation into the system. It left it in a state where consumers were not protected.

The answer to the member's question is: absolutely not. Victoria will remain competitive, and not only will it remain competitive but it will have a very good renewable energy strategy as well.

Our Environment Our Future: renewable energy

Hon. R. G. MITCHELL (Central Highlands) — My question is to the Minister for Energy Industries. Can the minister inform the house of any major new policy announced as part of the Bracks government's environmental sustainability action statement to help reduce greenhouse emissions, attract investment and create jobs in provincial Victoria?

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — I thank the member for his sensible question in relation to his clear understanding of the benefits of the renewable energy scheme that has been announced by the government.

I was very pleased to announce, along with the Premier and the Minister for Environment in the other place, the Victorian renewable energy target (VRET) scheme. It is a mandatory scheme which seeks to increase Victoria's share of renewable energy from a very low 4 per cent to 10 per cent by 2016. This important program will

deliver up to $2 billion of new investment in the renewable energy industry — most of it in provincial Victoria — and will create 2200 jobs. This extra investment in renewable energy as a result of this scheme will also reduce our reliance on fossil fuel powered stations in the future. The scheme will result in an additional 3274 gigawatt hours of renewable energy being produced in this state over the period.

We could not, as the state, simply sit back and do nothing when the central government decided to nobble the federal mandatory renewable energy target scheme, which previously financed renewable energy. We could not sit back and do nothing when Victoria's renewable energy was at a low 4 per cent and was unlikely to increase beyond that figure. The do-nothing option is not our approach; the do-nothing option is the policy of the opposition.

Hon. Philip Davis — You have not seen my policy yet.

Hon. T. C. THEOPHANOUS — Your policy, the policy of the opposition, is to do nothing about reducing greenhouse gases, to do nothing to get jobs and investment into regional Victoria and to do nothing to promote renewable energy in this state. Today the Leader of the Opposition in the other place, Ted Baillieu, and the Honourable Philip Davis criticised the government for pursuing renewable energy, yet they were not prepared to even say whether they would retain the Victorian renewable energy target scheme into the future. Regional Victoria, industry that has a stake in the VRET scheme and the electorate are all entitled to know if the opposition will support the legislation for VRET in this house or whether it would nobble it if it were ever elected to government in this state.

Both the Leader of the Opposition here and the Leader of the Opposition in another place have refused to say whether their policy is to repeal the legislation that will be passed through this house to establish the VRET scheme. Victorians will want to know where they stand on renewable energy. They will want to know whether the opposition is going to nobble 2200 extra jobs in regional Victoria; they will want to know whether they are going to nobble $2 billion of investment in regional Victoria; and they will want to know whether they will give up on the 27 million tonnes of greenhouse gases that would otherwise go into the atmosphere. This government is about jobs in regional Victoria, it is about investment in regional Victoria and it is about saving our environment as well.

Our Environment Our Future: manufacturing

Hon. PHILIP DAVIS (Gippsland) — I direct a question without notice to the Minister for Energy Industries. Victoria's long-term economic success has been closely aligned with the strength of investment in the manufacturing sector. For 80 years this has depended upon the low cost of electricity generated from the Latrobe Valley. Investment in Victoria's manufacturing sector is in serious decline with a net loss of more than 30 000 jobs in the manufacturing industry since the Bracks government came to office. Therefore I ask: is it a fact that the Victorian renewable energy target policy will significantly disadvantage Victoria's manufacturing industries compared with other states, which will exacerbate the current loss of investment and a loss of jobs?

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — As I said in answer to a sensible question asked by a member earlier, the Victorian renewable energy target scheme will create 2200 jobs in regional Victoria and $2 billion of investment.

Hon. Philip Davis — What about the 30 000 you have already lost?

Hon. T. C. THEOPHANOUS — I know Mr Davis does not like this, but it will create those jobs. There will be 2200 people in regional Victoria who will have a job as a result of this scheme. Opposition members might not care about those 2200 families, but we do care — we care about jobs in regional Victoria.

Let me say this: we are very fortunate to have low-cost power from brown coal in this state. The only threat to our cheap power in this state is that we will not be able to get any future investment in clean coal technology. Do members know why we will not be able to get that investment? The Prime Minister has been going around saying he did not want to bring about any kind of emissions trading scheme, that he was not interested in Kyoto, and he went on and on about how this was going to affect the economy.

Let me tell members one other thing it will affect: it will affect the capacity for anyone to build a new power station using clean coal technology because that new power station will not be competitive unless there is an emissions trading scheme which gives that power station a competitive advantage. The federal government has said no to an emissions trading scheme and it has said no to a renewable energy scheme. State opposition members can say, 'Us too, we agree, no emissions trading scheme, no renewable energy scheme, no investment in the Latrobe Valley, no

investment in renewable energy, no wind farms — no, no, no'. That is the policy of current opposition members, and that is what they want to take to the election. We are happy to fight them on this policy, on the question of jobs, on the question of the environment and on the question of future investment in this state in all of those areas that Mr Davis identified.

Let me give one example of the dishonesty that is being put out at the moment. The Prime Minister was prepared to put out and quote from an Australian Bureau of Agricultural and Resource Economics report that said there would be economic consequences from going down the path of supporting Kyoto, but was not prepared to put out an ABARE report from two or three weeks ago. That report says that if we in this state — in this country — do nothing, the trajectory is that by 2050 this country will be producing 142 per cent more greenhouse gases than the level produced in 2001. While other countries are trying to reduce their emissions down to 60 per cent of the 2001 levels, according to the federal government's own report we are on a trajectory of being at 142 per cent. That is the policy of the opposition in this state and of the federal government — and it is absolutely shameful.

Supplementary question

Hon. PHILIP DAVIS (Gippsland) — I thank the minister for his answer and preface my supplementary question with this observation: it is estimated that the Victorian renewable energy target transfer price subsidy from consumers will be greater than $2.6 billion. Therefore I ask the minister whether he will take responsibility for the loss of Victoria's competitive economic edge currently provided by the cheap supply of electricity?

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — The Leader of the Opposition has his questions written down and is going to ask them irrespective of the answers given to him. Obviously he did not listen to the answer given to his first question about the impact on the Victorian economy of the Victorian renewable energy target. We believe that this is a responsible scheme and that industry supports it. Even people in the industry who are not on the green side have issued statements in support of it, such as the one that I referred to from the Australian Gas Light Company. We have something which is supported by the industry, and it is about time that Mr Davis got on board with renewable energy and had a responsible policy in relation to climate change and the future of our children.

Our Environment Our Future: rural and regional Victoria

Ms CARBINES (Geelong) — My question is to the Minister for Energy Industries. Can the minister advise the house of any private sector investment that has been announced in regional Victoria as a result of the Bracks government's visionary Victorian renewable energy target scheme?

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — I thank the member for her question, and I know that she is — —

Hon. Philip Davis — On a point of order, President, it would save the house time if the minister produced the press releases for everybody to read.

The PRESIDENT — Order! There is no point of order. The minister, to continue.

Hon. T. C. THEOPHANOUS — As I was saying, I thank the member for her question. I know that, unlike the opposition, she is interested in investment in regional Victoria. Today, with the Premier, I was very pleased to announce that Acciona Energy has given the go-ahead for a very large — —

Hon. Bill Forwood — On a point of order, President. I refer to the standing rules of practice relating to questions. R1.03 says:

> Questions should not ask ministers —
>
> …
>
> (d) for information which is readily available in accessible documents.

Mr Lenders interjected.

Hon. Bill Forwood — As all members know, the document is very accessible. If the Minister for Finance would like me to provide him with a copy of the document, then I will be happy to do so.

The PRESIDENT — Order!

Hon. Bill Forwood — Sorry, President, I am just responding to the interjection. I put it to you that the question should be ruled out of order because the information is readily available in accessible documents.

Hon. T. C. THEOPHANOUS — On the point of order, President, I presume that the document the member is referring to is a press release. I can assure you, President, that I am not reading from a press release and that the information I intend to provide is

additional information about this important project and its impact on regional Victoria.

The PRESIDENT — Order! In answering the question the minister is quite within his rights in referring to documents which are available. I will allow the minister to answer the question.

Hon. T. C. THEOPHANOUS — In answering it I would like to put the question into some context — that this is the first of a number of announcements we believe will be made in relation to new renewable energy projects that will go ahead in regional Victoria. These new projects which we expect to be announced in the future will include wind energy and also biomass, hydro and potentially even solar projects as well.

In the case of the announcement today, which was in relation to a 192-megawatt power station to be built at Waubra, let me say that the initial $50 million investment that has been decided upon by this company would not have occurred without the Victorian government's renewable energy target scheme — it simply would not have occurred. This is investment which is generated from a scheme which the government has brought into play, make no mistake about it.

Renewable energy was at an absolute standstill not only at the Waubra wind farm but in fact right throughout the state. What this new project shows is that the government's announcement has been able to generate new investments. In this case the total project will result in 150 new jobs and a $400 million investment in the Ballarat region.

Again I refer to the fact that this means 150 families will be receiving an income in relation to the construction of this particular project. We are pleased to be associated with this project. The project will in fact result in a reduction of up to 750 000 tonnes of greenhouse gases per year, which is a level of greenhouse gas equivalent to taking 170 000 cars off Victorian roads.

One of the things that may not be readily known is that the company has agreed to establish a community wind fund in which it will make a donation to the local community of $64 000 per year for the life of the project. Not only do we get a wind farm, a reduction in greenhouse gases and jobs in the local community, but we get an additional $64 000 to be donated to the local community for the whole of the life of this project. What a win-win-win situation!

You would have to be stupid to oppose a project like this or to oppose the policy framework that allows a project like this to get up. One thing we are confident about is that Victorian electors are not stupid, and therefore they will support the government on these projects to help us bring about renewable energy.

Our Environment Our Future: plastic bags

Hon. P. R. HALL (Gippsland) — I will give the Minister for Energy Industries a bit of a rest and direct my question to the Minister for Consumer Affairs. I want to ask about an issue of great relevance to Victorian consumers. I refer the minister to the government's announcement yesterday when it said it would impose a tax on plastic shopping bags. Will an exemption to the imposition of this tax be given to those retailers choosing to use biodegradable plastic bags?

Hon. M. R. THOMSON (Minister for Consumer Affairs) — This is really not an issue for me, but an issue for the minister responsible for producing what I think is a fantastic statement on sustainability, which I think puts Victoria well and truly at the forefront of demonstrating how governments can work towards providing a sustainable future and lead the way. Examples of that can be seen in the press clippings today. They indicate that on both sides of the debate the statement has been seen as Victoria leading the way in setting an agenda for sustainability that certainly we on this side are very proud of and the Victorian population will be very proud of.

There is a lot to this statement. A great deal of work was put into this IT by many government agencies and various ministers, one aspect of which was in relation to plastic bags. This item has been up for discussion for a long period of time. I might add that this is not a tax, as the member has suggested, but it is about understanding the importance of the responsible use of plastic.

This matter does not come within my responsibilities. However, I read the relevant aspect of the statement, and I am sure that the member can be comforted by the fact that the Minister for Environment in the other place, the Honourable John Thwaites, whose responsibility this is and to whom the question should be directed, has already indicated publicly that it is very much geared towards the industry trying to deal with this issue before the phase-out and that one instrument that can be used is biodegradable bags.

Supplementary question

Hon. P. R. HALL (Gippsland) — By way of a supplementary question I want to put to the minister in response to her answer to this question that I would

have thought the Minister for Consumer Affairs and the Minister for Environment in the other place would have dual responsibility for this issue, given the fact that plastic shopping bags are a great concern for every shopper and consumer in Victoria. I therefore seek clarification of the minister's answer as to whether she was engaged in any discussions with the Minister for Environment regarding the consideration given to requiring retailers to use biodegradable plastic bags, as many do now, and if so, what were the issues canvassed in consideration of that matter?

Hon. M. R. THOMSON (Minister for Consumer Affairs) — I believe the member has been in this place longer than I have and would be well and truly aware that discussions that occur between ministers are not disclosed in this place. I have answered his question in relation to biodegradable bags even though, as I have indicated, it is not my responsibility to do so. I think I have answered that question.

Our Environment Our Future: smart meters

Mr VINEY (Chelsea) — My question is to the Minister for Energy Industries. Can the minister inform the house of any major new energy infrastructure projects announced as part of the Bracks government's environmental sustainability action statement to help reduce energy consumption and save money in Victorian households?

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — I thank the member for his question. The good news just keeps rolling in for Victorian energy consumers. Last week the Deputy Premier and I announced a major new infrastructure project — the rollout of new smart meters to Victorian households from 2008. This is a $780 million project that will be rolled out over a four-year period and will help to cut power bills and reduce greenhouse gas emissions at the same time. Once again the Bracks government is leading the way in the energy sector, with Victoria being the first state in Australia to announce a comprehensive rollout to every one of the 2.3 million homes and businesses using electricity in the state.

These new digital meters are to replace the old mechanical meters, which have served us well in their use over more than 100 years. I think most people would agree that it is time for us to put in new technology.

The new technology is digital technology, which will allow consumers to make real choices in relation to the use of power at appropriate times, using new tariffs that will allow them to make decisions to save money by purchasing power when it is at its cheapest. Consumers will be able to have cheaper power at off-peak times. They will be able to make choices, such as specifically turning on their washing machines, clothes dryers, dishwashers or pool pumps when power is at its cheapest.

Ms Hadden — Pool pumps!

Hon. T. C. THEOPHANOUS — They do use power, you know! Consumers will be able to make choices in relation to all of their appliances and get the cheapest power at those times. Best of all, with an add-on display, families will be able to see their power consumption go up and down as they use it in their homes — from turning lights on and off to leaving computers on stand-by rather than turning them off. Other benefits of smart meters include their rapid detection of outages, enhanced monitoring of quality of supply, detection of meter tampering, remote connection of electricity services, information on more suitable electricity pricing plans and a point-in-time display of greenhouse gas emissions.

In future, consumers will be able to have a display. The display will tell them whether and when they can get cheap electricity at a particular time. They can then decide on whether they turn on appliances at those particular times and save money. We believe they can save hundreds of dollars if they are able to plan their use of electricity to take advantage of cheaper power. Most importantly this will also help the environment because it will mean that we will not have a demand on electricity at inappropriate times during the day. This is another great initiative of the Bracks government that will assist consumers.

Government: printing contracts

Hon. B. N. ATKINSON (Koonung) — I direct my question without notice to the Minister for Finance, Mr Lenders. I refer to a recent government call for expressions of interest from companies to provide a print management service controlling whole-of-government print buying, which is worth between $15 million and $25 million. I note that expressions of interest for the work have closed and that Andrew Hockley, director of strategic communications at the Department of Premier and Cabinet, has told the printing industry that the government's intention in establishing this whole-of-government contract is not to cut printing costs by sending work overseas.

What guarantee can the minister provide that the selected provider of print services will not send

government printing work overseas or place work with companies that enjoy a competitive advantage because they do not comply with Victorian Government Purchasing Board requirements for suppliers?

Mr LENDERS (Minister for Finance) — Mr Atkinson has an unbelievably short memory. I find it extraordinary that he enters this place and lectures this government about the potential of moving printing services overseas when he was part of creating, and voted for, legislation to privatise our energy industries. If they had had the chance those opposite would have got rid of water. They flogged off our public transport and everything that moved to overseas companies, yet he comes here in a Hansonistic, populist gesture about this.

On that opening introduction to Mr Atkinson, either his memory does not go back beyond six and a half years or he is being incredibly selective in what he ranges on in this place. But leaving aside Mr Atkinson's selective memory, his issue is a serious one about how you bring into place government tendering. We have a lot of strategic sourcing in contracting where we try to get absolute value for money for government by consolidating our services. Mr Forwood and I have exchanged discussions on this during Public Accounts and Estimates Committee hearings and at other times. Mr Forwood will pay tribute vocally to this government's prudent policy in this area — and it will get a big tick from Mr Forwood, I am sure.

Mr Atkinson essentially has asked what procedure we follow for getting value for money. Clearly 10 government departments, Victoria Police and hundreds of statutory bodies, let alone separate groups within government departments, all going out and tendering their printing work separately is highly unlikely to be value for money for government. What government is doing here with printing, like we did with energy purchasing when we saved $11 million a year across all government departments, like we have done with paper purchasing, like we have done with information and communications technology purchasing — —

Hon. R. G. Mitchell — TPAMS.

Mr LENDERS — And, as Mr Mitchell says, with TPAMS, which is the telecommunications purchasing and management strategy — my colleague the Minister for Information and Communication Technology has led the way on TPAMS — we will constantly go out with expressions of interest to see if we can better purchase goods for the Victorian community. The objective of printing tendering is, firstly, to put rigour into our purchasing. In the 21st century not everybody necessarily thinks you need to print another pamphlet or do another leaflet when we have intranets, we have the Internet and we have other ways of doing things electronically. Secondly, when we do purchase, we do it in a value-for-money sense. The objective is not to move work overseas, the objective is to get better value for government with central government purchasing, taking into account the needs of departments and agencies so we can get both value for money and flexibility for departments. That is what this government is all about. We read the Auditor-General's report, we pay attention to how we can do things more efficiently and we believe we are getting a value outcome for Victorian taxpayers.

Supplementary question

Hon. B. N. ATKINSON (Koonung) — I ask if the minister can provide a guarantee to the house that the print management system the government proposes to install will meet all Victorian Government Purchasing Board requirements.

Mr LENDERS (Minister for Finance) — What Mr Atkinson does not understand, having been a parliamentary secretary in a Kennett government, is that if the Bracks government mandates a policy for government, it is something that is binding on departments and agencies. We actually set a policy because we want people to follow it. We do not set a policy because it sounds good for Premier Kennett to do it, and all these departments and agencies run off and do little side deals — the secretaries exemptions and mates rates that used to come out of the Kennett government by the bucketload. We can go through a litany of what happened.

We set a government policy framework because we expect departments to follow it. We empower authorised purchasing units to make sensible purchases. We devolve down in government decisions to make some of these purchases, we put some in strategic sourcing contracts and we have an overriding policy in place to put these things into place. I can assure Mr Atkinson that this government has a Victorian industry participation policy and has probity regimes. It wants value for money, and it does all that in an open, transparent and accountable fashion.

Our Environment Our Future: housing

Hon. KAYE DARVENIZA (Melbourne West) — My question is to the Minister for Housing, Ms Broad. I refer the minister to the government's commitment to

ensuring a sustainable state for future generations of Victorians and ask the minister how the government's *Our Environment Our Future — Sustainability Action Statement 2006* delivers on that commitment for tenants of public housing.

Ms BROAD (Minister for Housing) — I thank the member for her question and for her interest in how public housing tenants are leading the way in residential environmental sustainability. Ensuring that Victoria has a sustainable future is a very important challenge for all Victorians, and the Bracks government's $200 million environmental sustainability action statement *Our Environment Our Future*, aims to secure a sustainable state for future generations of Victorians.

There will be a host of measures included in this policy that will benefit public housing tenants. Those tenants, for example, who do not already have water-efficient fittings will benefit from initiatives through the policy, including the installation of AAA showerheads and dual-flush toilets. This is a $4 million investment by the Bracks government which will save 2822 megalitres of drinking water. Importantly, it will save tenants $2.5 million on their water bills every year. This is very important to public housing tenants who are trying to manage on a budget. The government also expects that public housing tenants will participate in the Coburg solar village trial. This is being facilitated by the Moreland City Council and will involve energy retrofits to some 100 homes in Coburg.

In addition, Victoria's 19 neighbourhood renewal areas will benefit from a $1.25 million injection, over four years, in an effort to kick environmental goals and to match our environmental goals with the government's social goals. Projects to be kicked off first include works on the Heathdale Glen Orden wetlands in the Werribee neighbourhood renewal area, and improvements to Lake Colac at the Colac neighbourhood renewal site. Because we know that green open spaces are important for public housing tenants, the government will be upgrading three community parks in neighbourhood renewal areas as a result of these initiatives — at Eaglehawk, Eumemmerring and Long Gully.

These initiatives build on the leadership the Bracks government has already shown in environmental sustainability through public housing. Since the government was elected we have constructed some 2630 new 5-star homes, delivered some 8375 energy and water efficiency upgrades to public housing properties, and more than 10 000 public housing tenants across Victoria have been connected to solar-powered hot water. There are also water recycling initiatives under way at the Atherton Gardens public housing estate, where 5 litres of water is being saved every minute through the harvesting of rainwater and using new energy-efficient washing machines that run on recycled water.

The Bracks government is making Victoria a better place to live and raise a family. These initiatives are crucial to ensuring that we secure a sustainable future for all Victorians, through this very important policy.

Water: US Services

Hon. B. N. ATKINSON (Koonung) — I wish to direct a matter to the Minister for Finance, Mr Lenders. I note his previous answer where he indicated that he expects all departments to follow the probity directions that the government provides. I refer to a question I asked the minister on 6 June regarding the conduct of South East Water in establishing US Services with Thiess Services and Siemens. The minister took the question on notice but has yet to provide an answer.

I note that US Services is structured as an alliance that avoids the need for Treasury approval. I further note that the Auditor-General is undertaking a review of the probity of South East Water's tendering practices and that civil contractors have asked that this review be extended to Yarra Valley Water and the arrangements it has entered into with Bilfinger Berger.

What action has the minister taken since 6 June to determine whether the US Services alliance is compliant with the requirements of the Victorian Government Purchasing Board and government guidelines on tendering and competitive neutrality? Or is US Services, as it has claimed to civil contractors, autonomous and not bound by the Victorian Government — —

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

Mr LENDERS (Minister for Finance) — I think Mr Atkinson both asked and answered his question in the same phrase because he asked what action we were taking as a government and he referred to an Auditor-General's inquiry. A fundamental action taken by this government was to restore powers to the Auditor-General to give him the authority to investigate of his own motion any area of government activity he thinks he ought to look at. We have also given the Auditor-General the authority to respond to any queries. I could give a list of issues the opposition has raised and the Auditor-General has responded to and

begun inquiries on, let alone ones he or his officers have themselves looked at.

Fundamentally we have given the Auditor-General the authority to look at all these areas. We have not gutted him, we have not taken away his powers, we have not made him an officer of the Department of Premier and Cabinet — as legislation Mr Atkinson voted for did. Until the voters of Mitcham alerted the then government to the issue in that by-election in 1998 it had no idea that the Victorian community was actually concerned with probity, that the Victorian community actually cared for checks and balances, and that the Victorian community knew who Ches Baragwanath was, knew what an Auditor-General was and liked what they saw. We have addressed those issues fundamentally.

On the specifics Mr Atkinson raised about an individual company and an individual arrangement, the Victorian government contracts $10 billion of goods and services every year. We have a series of policies in place that every department and every agency is meant to follow.

Hon. Bill Forwood — Meant to follow.

Mr LENDERS — I take up Mr Forwood's interjection. You have an accountable authority, which is a minister in a department. You have accountable officers in a department — they are all accountable — and, as Mr Atkinson well knows, under this government we have a sweep-all response at the end of the year from the Minister for Finance to every single recommendation made by the Auditor-General to make sure that that advice and the recommendations and issues raised by him are dealt with by the executive government.

In the government in which Mr Atkinson was a parliamentary secretary the watchdog over the watchdog was Mr Forwood. The Parliamentary Secretary to the Premier sat there and chaired the Public Accounts and Estimates Committee on behalf of the Premier. He chaired a committee while he was parliamentary secretary to monitor an Auditor-General who the then government tried to make a public servant in the Department of Premier and Cabinet. Those opposite did not have the foggiest idea about checks and balances. Mr Atkinson has come here — six and a half years later — dreaming of the time when there were no checks and balances.

It is not a lot of fun for ministers in government to have the Auditor-General scrutinising them. It is not a lot of fun for ministers in government to appear before the Public Accounts and Estimates Committee (PAEC). Both of them keep ministers and governments accountable, which is what checks and balances and the Westminster system are about. I can assure Mr Atkinson that we have an Auditor-General who watches, and we have the recommendations that come out of that which I report on as Minister for Finance as part of the annual report of the Victorian Government Purchasing Board.

Issues like those Mr Forwood has raised separately in this place or raised at the PAEC get reported. We report on these things, we follow them through and then we deal with policy where there are gaps. We do not nobble the Auditor-General, we do not fail to appear at the PAEC hearings like the Kennett government did. We will face any mistakes we make. We will take criticism and we will act to improve the law of the land in response to that.

Supplementary question

Hon. B. N. ATKINSON (Koonung) — The question was actually what the minister had done, not what the Auditor-General had done. In fact, the Auditor-General's actions are quite separate. I understand that South East Water has embarked on a process since 6 June — when I asked my question — to adjust or possibly regularise its relationship with US Services. I therefore ask: is the minister prepared to instruct South East Water and Yarra Valley Water not to enter into any new exclusive contracts for construction or maintenance works with US Services or Bilfinger Berger respectively until the Auditor-General completes his review of the tendering practices of both agencies?

Mr LENDERS (Minister for Finance) — I would have hoped that when Mr Atkinson was a parliamentary secretary, in his casual reading he would have strayed to the administrative arrangements just once to see what the responsibilities of individual ministers are before asking that question. However, I will say to Mr Atkinson that the Auditor-General, in his report on public sector agencies in August 2004, which included a special review on managing procurement and accounts payable, concluded:

> A strength noted in the current procurement environment is the requirements of the Victorian Government Purchasing Board. We found these requirements to be highly effective …

We have an arrangement in place where the Auditor-General has reviewed these reports, has made a comment that the framework is good — has made a positive comment on it. Within that framework, if any agency or accredited purchasing unit does not do what

is required, it will be held accountable first to its minister and its department secretary.

Hon. B. N. Atkinson interjected.

Mr LENDERS — Mr Atkinson gets excited but he should read the — —

Honourable members interjecting.

The PRESIDENT — Order!

Our Environment Our Future: computer disposal

Mr SMITH (Chelsea) — I refer my question to the Minister for Information and Communication Technology, the Honourable Marsha Thomson. The Bracks government's sustainability statement was released today. Can the minister provide the house with an example of how the Bracks government is securing a sustainable future for Victoria in the way it disposes of computers?

Hon. M. R. THOMSON (Minister for Information and Communication Technology) — We have heard this afternoon how the sustainability statement will advantage Victorians and put Victoria at the forefront of the sustainability policy in this country, but it is not just about the big picture. It is also about how we deal with sustainability within government. The statement goes to issues of how the government will act responsibly and for sustainability.

A few months ago I informed the house of the new whole-of-government personal computer (PC) and notebook panel that has been established. This panel is replacing nine separate agreements that have been entered into. The government not only achieved price savings with those arrangements but also established an Australian-first recycling clause.

Through the panel the government has negotiated a product stewardship clause that means for a small price at the commencement of the contract, departments can get the suppliers to retrieve the computer at the end of its life and dispose of it in an environmentally responsible way. Even if the computer is passed on to a third party, such as a charity or community group, as we have been doing with our computers, the supplier will still be bound by this clause and has the same responsibilities as it would if the machine stayed in the hands of government.

When we went out to tender for this panel we did not know if a product stewardship clause would be achievable, so when we did achieve this great outcome departments were given the option to decide whether or not to take up this clause. But as can be seen by the environmental statement made yesterday, we wanted to show even greater leadership in relation to these matters.

That is why the government has now decided to go one step further in relation to purchasing new computers and ensure that our government-owned PCs will either be reused or recycled. This means those departments that purchase computers from the panel will themselves be obliged to take up that stewardship clause. This puts Victoria at the front of this issue.

As other governments talk about sustainability, this government is acting in an economically responsible way. We are providing a great contract and panel for government departments to utilise whilst being environmentally responsible as well. This government is about producing outcomes for Victoria. We are producing them with the sustainability statement and making Victoria the best place to live and raise a family.

QUESTIONS ON NOTICE

Answers

Mr LENDERS (Minister for Finance) — I have answers to the following questions on notice: 2523, 3357, 3746, 5376, 5450, 5491, 5498, 5989, 6158, 6642, 7255, 7263, 7450–1, 7494, 7497, 7499–7501, 7505, 7507, 7524, 7530, 7550–1, 7581, 7583, 7605, 7650, 7692, 7698, 7734, 7759, 7801, 8042, 8046, 8067–8, 8111.

MEMBERS STATEMENTS

Hume: candidates

Hon. J. A. VOGELS (Western) — I would like to raise an issue which unfolded in the Magistrates Court recently. It concerns section 55(A)(1) and section 57 of the Local Government Act, which deal with the printing, publishing or distributing of material that is deceptive or misleading about another candidate or making false or defamatory statements about a candidate during the election period.

This case, *S. J. Medcraft v. Victorian Electoral Commission and Ann Therese Potter*, concerns the election of Hume City Council in November last year. In his ruling the magistrate found Mr Medcraft had been defamed by material run on a web site in the lead-up to those Hume council elections but because

the act offered no definition of 'a candidate', Mr Medcraft could not prove he was a candidate at the time. Also it appears to be open slather on potential candidates until nominations close because under the act the election period has not yet started and the provisions only come into force during the election period. The magistrate went on to say that this particular section of the Local Government Act was very poorly drafted.

It seems a high price to pay to clear one's name after being defamed by another candidate if you have to fork out some thousands of dollars in legal fees in the Magistrates Court. I call on the minister to rectify the Local Government Act so that concerned citizens are not scared off from standing for election because of false allegations about their character by a third party or a rival potential candidate.

Member for Scoresby: comments

Hon. H. E. BUCKINGHAM (Koonung) — I was shocked to read last week the comments in the *Yarra Ranges Journal* by Kim Wells, the member for Scoresby in the other place. Mr Wells, who is also the opposition spokesperson on policing issues, is reportedly concerned about the amount of time police 'waste', in his opinion, attending to domestic violence incidents.

Mr Wells is obviously not aware that family violence is the leading contributor to death, disability and illness among Victorian women in the 15-to-44 age group — a truly alarming statistic. Mr Wells seems also to be unaware that in the enlightened 21st century in Victoria, violence against women and children is a crime which, if responded to quickly by police, may result in successful prosecutions and a positive outcome for the women and children involved.

However, the Bracks government and Chief Commissioner of Police, Christine Nixon take family violence extremely seriously. In fact since the family violence code of practice was introduced by the police in 2004 there has been a 73 per cent increase in the number of charges laid by police and a 72 per cent increase in the number of intervention orders sought by police in family violence situations. This is commendable, and anyone who thinks otherwise should remember the statistics I have already cited. Mr Wells also called for an emergency accommodation hotline; obviously he is unaware that one already exists.

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

Government: broken promises

Hon. RICHARD DALLA-RIVA (East Yarra) — I rise to congratulate the Liberal Party on its continual exposure of this government's waste, mismanagement and rhetoric. I also congratulate the Liberal Party on launching a web site, www.bracksbrokenpromises.com.au. So far the tally recorded is 233 broken promises. Every day this web site has another broken promise added to it. With 130 days before the next state election, I am afraid there are not enough days left because this government continually breaks its promises — it never delivers on anything it says. We know it is a government of spin.

Members should look at the web site. Promise no. 197 from the Premier in 2002 was:

> Overseas travel perks for state MPs will be axed if Labor is returned to power.

Hang on! I remembered at the weekend that this is the same Premier who has just spent a quarter of a million dollars on his junket trip around the world — a broken promise!

No. 205 on the web site is about hospitals. The government's health care policy in November 2002 states:

> Create capacity for hospitals to treat more patients faster, with more beds and nurses.

Where is that at? Out the window! There are now less beds! This government is hopeless and just cannot deliver.

No. 231, concerning waste, states:

> a Labor government will … put an end to the waste — —

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

Mr Somyurek interjected.

The PRESIDENT — Order! I advise Mr Somyurek that I will not have that language in this house.

Statements interrupted.

SUSPENSION OF MEMBER

The PRESIDENT — Order! Under sessional order 31 I ask Mr Somyurek to remove himself from the house for 30 minutes.

Mr Somyurek withdrew from chamber.

Statements resumed.

David Hicks

Hon. J. G. HILTON (Western Port) — Previously I have made reference to the predicament of David Hicks, and I make no apologies for doing so again.

Australia was one of the few countries, if not the only country, which defended the use of military commissions by the United States to try those incarcerated at Guantanamo Bay. The US Supreme Court has now ruled that not only are the military commissions illegal under US law, they are also prohibited under the Geneva Convention.

I refer to a headline in the *Age* of Saturday, 1 July 2006, over an article written by Shaun Carney. The headline is 'Sacrificing David Hicks' and Mr Carney's article is introduced with the comment:

> John Howard has no interest in seeing justice being done for an Australian citizen.

Mr Carney is quite correct.

David Hicks, according to the Prime Minister, is guilty of serious crimes. What happened to the presumption of innocence? Mr Hicks, as an Australian citizen, is surely entitled to the protection of his government. No protection has been offered. The Prime Minister and the government are prepared to sacrifice the fate of David Hicks on the altar of the US alliance. This is a complete and utter disgrace. The federal government should hang its head in shame.

Member for Scoresby: comments

Hon. W. A. LOVELL (North Eastern) — I rise to condemn the Bracks government for its failure to provide adequate across-the-board emergency housing and specialised domestic violence support outside public service hours.

Last week the shadow Minister for Police and Emergency Services in the other place, Kim Wells, called for the Department of Human Services to extend emergency assistance around the clock to assist victims and police to connect with specialist advice and appropriate emergency accommodation. Unfortunately, last week's *Yarra Ranges Journal* misquoted Mr Wells as having said:

> … he was concerned police were spending too much time dealing with domestic violence victims.

This week's journal corrects that statement, saying:

> The quote was taken out of context and should have read that Mr Wells was concerned police were left searching for emergency housing and assistance after attending domestic violence incidents.

Kim Wells is a strong advocate for victims of domestic violence and wants to see the appropriate assistance given to victims. However, the Labor Party has chosen to politicise this important issue. Labor attacked Mr Wells for trying to give additional assistance to both victims and the police.

The Parliamentary Secretary to the Premier, Ms Darveniza, even went as low as issuing a press statement attacking me, even though only last week a critical service providing support to victims of domestic violence in Ms Darveniza's electorate was forced to close due to the Bracks government's decision to cease its funding.

Rather than issuing press statements criticising the Liberal Party, Ms Darveniza's time could have been used far more productively in lobbying her government colleagues to continue funding for the Western Women's Domestic Violence Network, a service that had the strong support of police in the western suburbs — —

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

Chronic Illness Alliance: web site

Ms MIKAKOS (Jika Jika) — On 6 July I had the pleasure of launching the Chronic Illness Alliance's workwelfarewills web site, which is designed to assist chronic illness sufferers with free legal advice. The alliance has 39 member organisations which provide invaluable services to people with chronic illnesses. They include Asthma Victoria, beyondblue, the Cancer Council of Victoria, the Victorian office of Diabetes Australia, the Epilepsy Foundation, the Hepatitis C Council, the Leukaemia Foundation and the M.S. Society of Victoria, to name just a view. Launched at and partially funded by the Victorian Law Foundation, the web site informs people living with chronic illness about issues such as superannuation and welfare entitlements, disclosure, and health and privacy law as well as powers of attorney, guardianship issues and wills.

The Department of Human Services has also contributed financially to the ongoing maintenance of the site. The web site provides valuable free legal information to people who may otherwise be denied their legal rights and entitlements through a lack of knowledge. Many individuals, including a number of law firms, have contributed to the development of this web site. I thank all who contributed to it. I also

congratulate the Chronic Illness Alliance on its efforts and wish the service every success.

I encourage members of Parliament to make this useful new web site known to their local constituents. It will be of great relevance to chronic illness sufferers but also to the wider community because a lot of the information on the web site will be of general interest.

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

Public Accounts and Estimates Committee: privilege

Hon. BILL FORWOOD (Templestowe) — I invite members to read the transcript of the Parliamentary Accounts and Estimates Committee hearing with the presiding officers where the Speaker made the very strange statement that correspondence between her and members of Parliament was privileged and therefore could not be made public. Members know that 'privilege' has a special meaning and that a breach of privilege by an MP would be a contempt of Parliament.

Mr Baxter, with his forensic mind, got the Speaker to admit that an identical letter from a person — not an MP, but an ordinary citizen — would be treated differently. What an odd circumstance. According to the Speaker, the rights of MPs to express views or ask questions are less than those of a person who is not in Parliament.

I, of course, have a completely different view on this matter. Accordingly I wrote to the Speaker seeking details of her reasoning. She declined to provide any reasons at all. I responded to the Speaker as follows:

> I never cease to be amazed at the lengths you will go to to avoid proper explanation of matters within your jurisdiction or of statements that you have made on the public record.
>
> Your comment 'those letters are privileged …' is recorded for all to see and worry about.
>
> I ask you again to justify this position …
>
> Another refusal to do so will lead to the inevitable conclusion that you are unable to do so because such letters are not privileged.
>
> That then would lead to the question of whether you were genuinely mistaken in your belief or not.
>
> I look forward to your early response. I reserve my right to make this letter public.

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

Member for Scoresby: comments

Hon. KAYE DARVENIZA (Melbourne West) — I rise to make some comments about the outrageous statements that were made recently by the opposition's spokesperson for police and emergency services in the other place, Kim Wells, and particularly his comments about the amount of time that police — —

Hon. W. A. Lovell interjected.

The PRESIDENT — Order! Ms Lovell has had her opportunity and should please desist.

Mr Smith — On a point of order, President, I emphasise the point that it is unparliamentary for a member to interject during a member's statement.

Hon. Bill Forwood interjected.

The PRESIDENT — Order! Mr Forwood! I have already told Ms Lovell to desist, and I ask Mr Smith to take note of those comments. Ms Darveniza, to continue.

Hon. KAYE DARVENIZA — I want to comment about the outrageous statements made recently by Kim Wells in relation to police dealing with domestic violence and on his saying it was not at the front line of policing and that police should not be spending so much time dealing with domestic violence.

I also call on the opposition spokesperson, Ms Lovell, to condemn those comments made by Kim Wells. Nobody, including Ms Lovell, should be supporting statements that police should not be dealing with domestic violence. Domestic violence is assault and it is widespread across the community. We have put in place a system for police to be able to respond more effectively to domestic violence. For the opposition spokesperson — —

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

Biofuel: Midfield Meats

Ms CARBINES (Geelong) — Recently I had the pleasure of visiting Midfield Meats in Warrnambool to announce an important project being undertaken, which, if successful, will reduce thousands of tonnes of greenhouse pollution a year.

Midfield Meats is investigating using animal fat, the by-product of meat processing, to make biodiesel. That could not only fuel their entire transport fleet but also allow them to sell the excess biodiesel on the open

market. The Bracks government is proud to support Midfield Meats in this project by providing $66 000 in funding from Sustainability Victoria. If the plant is built it will have the potential to take the majority of Midfield Meats' tallow and convert it into over 10 million litres of biodiesel every year.

This project is particularly exciting as it has the potential to take thousands of tonnes of greenhouse gases out of the atmosphere by providing an alternative to the use of diesel. The environmental significance of this is enormous — not just to the south-west but to the state. It would form the basis of Victoria's first commercial-scale biodiesel plant using tallow direct from the onsite rendering operation. For Midfield Meats it would bring a significant economic return. By using its tallow more productively it would reduce its diesel costs and allow the excess biodiesel to be sold to the market

As Parliamentary Secretary for Environment I congratulate Midfield Meats and in particular Andrew Westlake, group operations manager, for his leadership and willingness to explore — —

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

Victoria University: 90th anniversary

Hon. S. M. NGUYEN (Melbourne West) — I congratulate the Victoria University (VU) on celebrating its 90th anniversary of serving the Victorian community. This year the university organised a big function in the west. Many people from the community were invited, as were all the people who had been involved in the university over many years. On Sunday, 23 July, VU will celebrate its 90th anniversary in Saigon, Vietnam. Vice-Chancellor and President Elizabeth Harman will be there with many other senior staff. This is to show that VU is committed to expanding its services, not only in the west but also to other countries like Vietnam, Malaysia and China and to other countries in the Asia-Pacific region. I congratulate the work of Victoria University. I think it shows the — —

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

Mildura: humanitarian settlement

Hon. B. W. BISHOP (North Western) — I have received a letter from the commonwealth Department of Immigration and Multicultural Affairs concerning the pilot Mildura regional humanitarian settlement project. In 2005 there was a series of meetings in Mildura to gauge local interest and support for this project in support of refugees. Those meetings were informative and included many community sectors, and it was apparent at the conclusion of these meetings that there was solid support for the pilot. However, the letter I have now received from the commonwealth department states that the Victorian Department of Human Services has advised it that it is not prepared to support a pilot project in Mildura at this time. The reason given is that local public health, medical and specialist services are not adequate and are too distant from Melbourne.

This is an indictment of the city-centric government that has been caught out again selling the country short. It says the level and standard of support here is so low that we cannot accept refugees in need, but apparently the level of medical and specialist services is good enough for the local population and indeed the additional 3000 people per year who choose to come to live in that district. I ask the minister to investigate ways that the Department of Human Services can bring the level of service delivery up to scratch for those who live in the Mildura region so that people we are prepared to accept are not displaced due to a lack of services.

Council of Australian Governments: national reform agenda

Mr SMITH (Chelsea) — I congratulate the Prime Minister, John Howard, who has displayed a rare cooperative streak at a recently convened meeting of the Council of Australian Governments. As most members of this house know, Victorian Premier Steve Bracks has taken the lead in proposing to COAG an agenda of structural reform — reform that this country sorely needs. The Victorian Premier has proposed unprecedented reforms that will set this country on a path of continuous improvement — reforms that will inevitably result in a more competitive Australia.

I was particularly pleased to hear of overwhelming support within the COAG leadership for serious reforms. It would be remiss of me not to mention that the federal Treasurer, Mr Peter Costello, seems to be totally out of step with the states and territories when it comes to discussing the long-term benefits for Australia. I hope and pray that his caucus colleagues are taking note of what I am saying.

PETITION

Schools: public education

Hon. S. M. NGUYEN (Melbourne West) presented petition from certain citizens of Victoria requesting that any new education and training legislation should — (1) provide adequate public funding that is not restricted to 'key learning areas'; (2) reject any proposed legal endorsement of compulsory fees or voluntary levies; (3) oppose corporate sponsorship and control by private interests; (4) ensure that public funding is not subject to or dependent upon private interests; and (5) ensure separate funding, administration and regulation of public schools from private schools (101 signatures).

Laid on table.

STATE SERVICES AUTHORITY

Rural Ambulance Victoria

Mr GAVIN JENNINGS (Minister for Aged Care), by leave, presented interim report on review of governance and effectiveness of Rural Ambulance Victoria.

Laid on table.

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

Alert Digest No. 7

Ms ARGONDIZZO (Templestowe) presented *Alert Digest* No. 7 of 2006, including appendices.

Laid on table.

Ordered to be printed.

Regulation review 2005

Hon. ANDREW BRIDESON (Waverley) presented annual review, including appendices.

Laid on table.

Ordered to be printed.

RURAL AND REGIONAL SERVICES AND DEVELOPMENT COMMITTEE

Regional telecommunications infrastructure for business

Hon. R. G. MITCHELL (Central Highlands) presented report, including minority reports, appendices and extract from proceedings, together with minutes of evidence.

Laid on table.

Ordered that report be printed.

Hon. R. G. MITCHELL (Central Highlands) — I move:

That the Council take note of the report.

I thank all members of the committee who spent a lot of time and effort travelling around Victoria in their endeavours to learn about and understand telecommunication issues facing those who live in sparsely populated communities and regional areas. While travelling across the state we heard about the emerging trends in telecommunications, the needs of businesses and families who live in such areas and the problems they face because of the lack of modern and up-to-date facilities, and the ability to get broadband and mobile phone coverage. It was particularly noticeable when you consider that today we are in a global market and to be competitively advantaged across the world we need to ensure that we have modern up-to-date communications infrastructure and the ability to be online at all times to ensure that our producers in rural and regional areas are able to access markets immediately in today's modern world.

There were 47 recommendations put forward by the committee. There was a lot of discussion about ways to look at telecommunications issues. As telecommunications are such a vital and important part of the community, many varied views and ideas were put forward on what we should be doing. The committee was ably chaired by the member for Seymour in the other place, Ben Hardman, and comprised the member for Gippsland East in the other place, Craig Ingram, my colleague in this place, Mr McQuilten, the member for South-West Coast in the other place, Denis Napthine, the member for Swan Hill in the other place, Peter Walsh, the member for South Barwon in the other place, Michael Crutchfield, and me.

We spent a lot of time going through and understanding the different acronyms and terms used to describe the

different parts of telecommunications, because it is such a wide and varied area to be delving into, whether it be mobile phones, broadband et cetera. We saw some of the modern technologies that are around, such as wireless broadband, the small pods and new mobile phone coverage, whether it be satellite or code division multiple access, known as CDMA, which most rural and regional members would know is a great system to have across the state because it gives coverage to more areas than perhaps the modern digital service that people in Melbourne and suburban areas are able to access.

We were very honoured to have been given demonstrations by businesses that use new telecommunications and online technologies to conduct their work a lot faster and a lot smarter. We saw Victorian communities working together with the telcos to develop and resource them, to bring them forward and to share today's needs and resources. As I said, many recommendations were put forward. Increasingly as time went on we noticed that Victoria was obviously well ahead of other states in what it was doing in telecommunications.

The majority of this issue relates to the federal jurisdiction, but because of the federal government lagging in developing telecommunications the Victorian government has stepped up and ensured that more people across Victoria, particularly in country areas, get access to quality telecommunications. We looked at all sorts of models, recommendations and findings across the state, but the disappointing part was that when we tried to work together with the federal government, state government and councils it was increasingly obvious that certain members of the committee were not interested in being involved in persuading the federal government to help Victorians by assisting in programs which would be to the betterment of those who live in rural and remote areas.

Hon. W. R. Baxter — They were not interested in fed bashing!

Hon. R. G. MITCHELL — They were not interested in getting federal funding. If members took the time to read finding 8, they would see that The Nationals were against equitable access to services as a requirement for a competitive marketplace when talking about the economic performances of regional businesses.

Hon. W. R. Baxter — I understand the report is riddled with inconsistencies.

Hon. R. G. MITCHELL — There were different findings and different views, but after two and a half years of working hard on this inquiry there was a three-page minority report which is broad based and which contains no in-depth knowledge. If that is the best effort of those members after all that time — and they were unable to attend most of the committee hearings — then there is a difficulty in having them make statements about what is needed.

Hon. BILL FORWOOD (Templestowe) (*By leave*) — I have not read the report, but I look forward to doing so. I do not have to be on the committee to speak on this because anyone can speak by leave.

Hon. D. McL. Davis — You can do a handstand, by leave.

Hon. BILL FORWOOD — I will read this report with interest, given the provocative remarks by the person who just tabled the report.

Hon. J. M. Madden — You have never been provocative in your life!

Hon. BILL FORWOOD — Never. I look forward in particular to concentrating on the minority report, because I think there will be more merit in reading the minority report than there will be in the undoubted biased report of the majority. Mr Mitchell in his contribution took the opportunity to criticise the federal government. That is what you would expect from a Labor Party hack. All I am saying is that this report probably demeans the reports of the Parliament. Most reports come in here having been well researched, well thought out and with as much bipartisanship as possible. I do not know the history behind this, but given the comments made by the member in tabling the report, I recommend that members take the majority report with a grain of salt.

Motion agreed to.

PAPERS

Laid on table by Clerk:

Auditor-General — Annual Plan, 2006–07.

Crown Land (Reserves) Act 1978 —

Minister's order of 30 May 2006 giving approval for the granting of a lease at Mentone and Mordialloc Beach Park Reserve (three papers).

Minister's order of 20 May 2006 giving approval for the granting of a lease at Point Leo Foreshore Reserve (three papers).

Minister's order of 11 May 2006 giving approval for the granting of a lease at Westerfolds Park Reserve (three papers).

Interpretation of Legislation Act 1984 — Notice pursuant to section 32(3)(iii) in relation to Statutory Rule No. 41/2006.

Melbourne Cricket Ground Trust — Minister's report of failure to submit report for 2005–06 to the Minister within the prescribed period and the reasons therefore.

Murray-Darling Basin Act 1993 — Schedule H — Application of Murray-Darling Basin Agreement to Australian Capital Territory, pursuant to section 28(b) of the Act.

National Parks Act 1975 — Minister's notice of 14 June 2006 of consent for petroleum exploration within the Lower Glenelg National Park.

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

Ballarat Planning Scheme — Amendment C94.

Bass Coast Planning Scheme — Amendments C27 Part 1 and C45.

Baw Baw Planning Scheme — Amendment C34.

Bayside Planning Scheme — Amendment C51.

Benalla Planning Scheme — Amendment C15.

Boroondara Planning Scheme — Amendments C51, C56 and C57.

Campaspe Planning Scheme — Amendments C37 and C39.

Cardinia Planning Scheme — Amendments C58 and C78.

Casey Planning Scheme — Amendment C81.

Central Goldfields Planning Scheme — Amendment C6.

Corangamite Planning Scheme — Amendment C14.

Glen Eira Planning Scheme — Amendment C51.

Glenelg Planning Scheme — Amendment C23.

Greater Bendigo Planning Scheme — Amendments C34, C72 and C76.

Greater Dandenong Planning Scheme — Amendment C72.

Greater Geelong Planning Scheme — Amendment C91.

Greater Shepparton Planning Scheme — Amendment C27.

Hume Planning Scheme — Amendments C60, C63 and C70.

Indigo Planning Scheme — Amendment C33.

Kingston Planning Scheme — Amendment C46 Part 2.

Macedon Ranges Planning Scheme — Amendment C28.

Manningham Planning Scheme — Amendment C56 Parts 1 and 2.

Maroondah Planning Scheme — Amendment C47.

Melbourne Planning Scheme — Amendments C61 and C107.

Moonee Valley Planning Scheme — Amendment C60.

Mornington Peninsula Planning Scheme — Amendments C74 Part 1 and C76.

Nillumbik Planning Scheme — Amendment C30.

Port Phillip Planning Scheme — Amendments C23 and C32.

South Gippsland Planning Scheme — Amendments C23 and C38.

Wangaratta Planning Scheme — Amendment C23.

Warrnambool Planning Scheme — Amendments C21 and C39.

Yarra Planning Scheme — Amendment C62.

State Concessions Act 2004 — Concessions pursuant to section 7 of the Act (five papers).

Statutory Rules under the following Acts of Parliament:

Building Act 1993 — Nos. 68 and 79.

Crimes (Assumed Identities) Act 2004 — No. 74.

Crimes (Family Violence) Act 1987 — No. 78.

Drugs, Poisons and Controlled Substances Act 1981 — No. 70.

Environment Protection Act 1970 — No. 65.

Evidence Act 1958 — No. 77.

Firearms Act 1996 — No. 81.

Fisheries Act 1995 — No. 63.

Gambling Regulation Act 2003 — No. 71.

Infringements Act 2006 — Nos. 75 and 76.

Magistrates' Court Act 1989 — Nos. 69, 72, 83 and 87.

Planning and Environment Act 1987 — No. 85.

Plant Health and Plant Products Act 1995 — No. 62.

Prostitution Control Act 1994 — No. 64.

Road Safety Act 1986 — No. 82.

Surveillance Devices Act 1999 — No. 73.

Sustainable Forests (Timber) Act 2004 — No. 84.

Terrorism (Community Protection) Act 2003 — No. 80.

Transfer of Land Act 1958 — Nos. 66 and 67.

Transport Act 1983 — No. 86.

Subordinate Legislation Act 1994 —

Minister's exception certificates under section 8(4) in respect of Statutory Rule Nos. 67, 69, 72, 79, 83, 85 and 87.

Minister's exemption certificates under section 9(6) in respect of Statutory Rule Nos. 63, 65, 70, 71 and 78.

Minister's infringements offence consultation certificate under section 6A(3) in respect of Statutory Rule No. 86.

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

Crimes (Assumed Identities) Act 2004 — 1 July 2006 (*Gazette No. G26*, 29 June 2006).

Equal Opportunity and Tolerance Legislation (Amendment) Act 2006 — 30 June 2006 (*Gazette No. G26*, 29 June 2006).

Evidence (Witness Identity Protection) Act 2004 — 1 July 2006 (*Gazette No. G26*, 29 June 2006).

Firearms (Further Amendment) Act 2005 — remaining provisions of Part 2 (other than sections 11, 15, 27, 33, 48, 54 and 59) and Part 5 — 1 July 2006 (*Gazette No. G26*, 29 June 2006).

Guardianship and Administration (Further Amendment) Act 2006 — 15 July 2006 (*Gazette No. G27*, 6 July 2006).

Infringements Act 2006 — 1 July 2006 (*Gazette No. G26*, 29 June 2006).

Infringements (Consequential and Other Amendments) Act 2006 — 1 July 2006 (*Gazette No. G26*, 29 June 2006).

Investigative, Enforcement and Police Powers Acts (Amendment) Act 2005 — Part 9 — 1 July 2006 (*Gazette No. G26*, 29 June 2006).

Major Crime Legislation (Office of Police Integrity) Act 2004 — section 12 and Parts 6 and 7 — 1 July 2006 (*Gazette No. G26*, 29 June 2006).

Public Sector Employment (Award Entitlements) Act 2006 — 3 July 2006 (*Gazette No. G25*, 22 June 2006).

Surveillance Devices (Amendment) Act 2004 — 1 July 2006 (*Gazette No. G26*, 29 June 2006).

Transport Legislation (Further Miscellaneous Amendments) Act 2005 — Division 1 of Part 9 and section 34 — 31 July 2006 (*Gazette No. G27*, 6 July 2006).

TRANSPORT LEGISLATION (FURTHER AMENDMENT) BILL

Second reading

For **Ms BROAD** (Minister for Local Government), Hon. J. M. Madden (Minister for Sport and Recreation) — I move:

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

In doing so I draw to the attention of the house some minor amendments, which are at page 4 of the second-reading speech.

Motion agreed to.

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

That the bill be now read a second time.

Incorporated speech as follows:

An important goal of this government is to create a fairer society. One crucial aspect of this goal is ensuring that vulnerable and disadvantaged members of the community are given the opportunity to participate in society in a meaningful way.

The government is determined to ensure that we strive to achieve this goal in the administration of Victoria's public transport system. The three major proposals contained in this bill represent an important step in this process:

1. The bill introduces a new accreditation scheme for drivers of commercial passenger vehicles (buses, taxis and hire cars) and private bus services.

2. It introduces a strengthened scheme for the accreditation of public transport companies who employ or engage their own authorised officers.

3. It introduces a new sentencing option for the court when dealing with certain public transport offenders — for example, where that person suffers from mental illness or a disability.

These amendments make very specific changes to the Transport Act 1983. It is worth noting that, in the recent transport and livability statement, the government announced that we would be conducting a comprehensive review of the transport legislation, with the aim of continuing the reform of policy and legislation to ensure it supports Victoria's current and future needs.

Accreditation of drivers of commercial passenger vehicles and private bus services

Currently, the Transport Act contains a scheme for the certification of drivers of commercial passenger vehicles — that is, buses, taxis and hire cars and also private bus services. It is necessary to amend this scheme to better reflect the

increasing concern of the community to protect its more vulnerable members.

Accreditation for drivers of commercial passenger vehicles and private bus services enables controls to be imposed in order to regulate who is permitted to carry out this important task. Drivers of these vehicles have important responsibilities and are often in positions of significant trust. For example, drivers of school buses might have only one or two very young passengers on board at the end of the afternoon run. In addition, there are many people in our community, such as many elderly or disabled people, who cannot conveniently drive a car and who are therefore highly dependent on public transport for their mobility and access within the community. Also, it is a striking, but often overlooked, feature of a taxicab that it is the one car one will, without question, enter and ride in with a stranger at the wheel.

A more robust process for accrediting persons who can be allowed to carry out these functions reminds all drivers of the importance of doing their job responsibly. And it should give more vulnerable people, as well as the community generally, additional confidence in using public transport.

This bill will introduce a new driver accreditation scheme which will make substantial improvements to the existing scheme.

First of all, the current provisions do not describe the purpose of this accreditation, and do not insist that this purpose govern the accreditation process. The bill will address this issue by ensuring that a clear public care objective is established as the guiding principle that underpins the new scheme. The public care objective makes it explicit that this new scheme is primarily focused on —

> the safety of the travelling public, especially children and other vulnerable members of the community such as the aged and disabled;
>
> the comfort, amenity and convenience of these persons; and
>
> the protection of the public purse from theft and fraud by some drivers.

The new provisions will ensure that this focus is maintained throughout the accreditation cycle — that is, for initial issue of accreditation, for its subsequent renewal and for any disciplinary decision that could result in a range of consequences, from a reprimand to cancellation.

Second, the current provisions have been in place since 1983 and have been amended many times and have become difficult to follow as a result. The new provisions are to be in a self-contained division, and will be a lot easier to access and follow.

Third, and of most concern, the current scheme does not provide sufficient protection for the public — especially the most vulnerable members of our community — from the intrusion into this industry of the most unsuitable people. At present, persons who are unsuitable can be rejected by the exercise of a simple discretion, where the onus lies on the regulator to justify a negative decision.

The bill will handle this in a more robust fashion. In particular, persons with the worst criminal history, such as predatorial sexual offences against children and persons in care and crimes such as murder, rape and terrorism, will be automatically refused accreditation. This sends an important message to the community, that government will act to protect those who most need protection when using public transport. In addition, current controls will be maintained — including the limitation imposed on interstate drivers. These people are permitted to drive in Victoria, without Victorian accreditation, only for the purpose of stipulated cross-border journeys, and this will continue to be the case. On this subject, the bill was amended in another place on 15 June — an amendment which corrects an inadvertent error in the bill, and which maintains the current control.

Accreditation of public transport companies with their own authorised officers

The current scheme accredits public transport companies (rail and bus) who employ or engage their own authorised officers to perform law enforcement duties on public transport. However, the purpose of the scheme is not clearly stated, and so does not effectively govern decisions about the companies' accreditation. Further, the provisions that enable the regulator to monitor the performance of the company's management of its authorised officers are inadequate.

Most public transport laws affecting the public concern the obligations on passengers to hold a valid ticket and requirements that they behave safely and courteously towards other persons on the public transport network. These laws are enforced by members of the police force or by authorised officers appointed by the Department of Infrastructure. The privatisation of the public transport system has made it necessary to enable public transport companies to employ or engage their own authorised officers. Without this ability, it is unreasonable to expect them to discharge their responsibilities.

On the other hand, it is not appropriate to have law enforcement officers exercising powers in the public domain without appropriate government regulation of their behaviour. This is the purpose of the accreditation scheme established by division 4A of part VII of the Transport Act. The scheme requires public transport companies to demonstrate the adequacy of their management of the authorised officers they employ or engage.

The amendments in the bill will strengthen this scheme in a number of respects, including —

> first, by stating the purpose of the scheme, namely, to require public transport companies to ensure that their authorised officers conduct themselves in a way that promotes the safety and also the comfort, amenity and convenience of the travelling public, especially children and other vulnerable members of the community;
>
> second, by ensuring that this purpose governs the entire scheme. The authorised officer management system of the companies will have mandatory content, and the effectiveness of that management system will be critical throughout the accreditation cycle;
>
> third, by strengthening the monitoring of the effectiveness of the companies' management of their authorised officers.

Public transport education programs for certain disadvantaged offenders

The government is committed to protecting rights and addressing disadvantage. The Attorney-General's justice statement of May 2004 contains a determination to adopt 'a multidisciplinary approach to address the offending behaviours of people who may be mentally ill, have an intellectual disability, are dependent on drugs or who are homeless, and are caught up in a cycle of offending and punishment'.

The Infringements Act 2006 takes a giant step in addressing this cycle. In the second-reading speech for that bill, the Attorney-General outlined a number of strategies, including the taking of 'measures at various stages, including internal review stage, to filter people out of the system who cannot understand or control their offending behaviour (for example, people with mental or intellectual disabilities, the homeless, people with serious addictions)'.

This bill contains a proposal that applies this thinking to public transport. The vast majority of public transport offences (ticketing offences and behaviour offences) result in a fine. However, it is necessary to address situations of low culpability and other circumstances where a punitive approach is unlikely to be fair or to increase the level of compliance. There are many people in the community — including persons with a mental illness or a disability, persons from diverse cultural backgrounds, persons with limited English and persons with a substance dependency — who find the system difficult to use, and feel alienated from it as a result. What then follows is either that they do not use the system, or they use the system wrongly. Of course, neither of these outcomes is acceptable as the government wants people throughout the community to use the public transport system and to feel confident doing so.

In many cases, the person who has committed the offence would benefit from a better understanding of the public transport system and their obligations when using it. This bill will provide the court with the opportunity of directing appropriate offenders to participate in an education program designed to promote this understanding.

The course will be developed and funded by the Department of Infrastructure and approved by the director of public transport. It is expected that the course will canvass such matters as:

> the ticketing system, including concession tickets, ticket zones and alternative means of purchasing;
>
> the fact that the public transport system is a community asset and that people have the right to travel on public transport safely and comfortably;
>
> the fact that the vast majority of passengers pay their full fare, and are entitled to feel aggrieved by people who travel without paying;
>
> the serious revenue impact of fare evasion;
>
> the role of authorised officers.

The proposal will not restrict the court's discretion, but will give it a further alternative. It is likely that the court will avail itself of this new alternative in relation to two existing programs, namely, the diversion program and the enforcement review program. The existence of an appropriate public transport education program will greatly enhance the court's handling of public transport offenders.

It is proposed that the Department of Infrastructure will itself use these education programs when processing infringement notices at the administrative level. If an offender for whom the course is appropriate is identified early in that process, it is intended that the infringement notice will be withdrawn and the offender requested to participate voluntarily in the program. If the offender is not identified early, the matter will proceed to court.

It is proposed to use a similar course for the purpose of preventative education in community sectors where it is considered appropriate. Resort to the education program at the administrative level does not require any legislative amendment.

A pilot of the education program is expected to be ready in the second half of this year. It will then be adjusted, on the basis of what is learned from the pilot, with a view to being fully operational early in 2007. Depending on the success of the program, consideration may also be given to expanding it in the future to include other public transport offenders.

Other proposals

In addition, this bill contains a proposal to amend section 218B of the Transport Act to enable name and address information obtained from passengers by police officers to be entered onto Victoria Police's database and also compared with the database at the Sheriff's Office. This will benefit law enforcement considerably by ensuring that information held on offenders is accurate.

The opportunity has also been taken in the bill to make a number of largely minor and machinery amendments to public transport legislation. The bill will —

> enable VicTrack to enter land, for the purpose of installing underground cables that support the signalling system, without the need to obtain and register an easement. This power is identical to the statutory power given to utilities under relevant legislation. DSE and DPI have been consulted about this proposal.
>
> enable the director of public transport to be registered on title of land held by the Director.
>
> identify the director of public transport, rather than the Secretary of the Department of Infrastructure, throughout the legislation as the regulator and overarching administrator of public transport.

Overall, the bill continues the government's reform of public transport legislation and the necessary transition to better, clearer and more streamlined performance and process-based regulation that is targeted at the reflection of clear policy and principles. This is a direction which is being pursued on an ongoing basis for public transport legislation generally.

I commend the bill to the house.

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

Debate adjourned until later this day.

BUILDING AND CONSTRUCTION INDUSTRY SECURITY OF PAYMENT (AMENDMENT) BILL

Second reading

Debate resumed from 15 June; motion of Mr GAVIN JENNINGS (Minister for Aged Care).

Hon. D. McL. DAVIS (East Yarra) — I am pleased to make a contribution to the debate on the Building and Construction Industry Security of Payment (Amendment) Bill. The opposition does not oppose this bill, but I want to register a series of grave concerns about the government's activities on this legislation and indicate that the opposition will move amendments to the bill in the committee stage.

The first point I make is that this is very complex legislation indeed. I think that anyone who has sought to grapple with it — including the minister, no doubt — will have discovered its extraordinary complexity. Having said that, it is important to put on record the broader principles behind the original act and, one would have hoped, some of the changes in this bill.

The government sought through the 2002 act to bring in a security of payment system to protect contractors — small contractors in particular — and to provide smoother functioning of the building and construction industry. In preparing for this debate the opposition has consulted widely with relevant industry bodies, and in the period between the bill's introduction and the beginning of the debate the industry has sought to grapple with what it is about to do.

The bill aims for national consistency. It does not achieve it, although it gets a little closer to doing so in the cases of New South Wales and Queensland. Claimants retain an option to have adjudication by a court when a respondent fails to respond. Clause 5 inserts a new definition of a progress payment to include a final payment. I will discuss the changes in clause 11 in a moment. The bill provides that adjudicated amounts are accessible, even when they are held in trust. Clause 14 makes available a lien on unfixed plant or materials. Clause 16 limits a claim period to three months, which is a reduction from the period of seven years under the statute of limitations provisions. Other clauses deal with the payment of interest.

The essential thing is that there is an system of adjudication under the Building and Construction Industry Security of Payment Act, and clause 28 of this bill makes the adjudications under that act reviewable in a number of limited circumstances. The adjudication certificates are able to be used in court to enforce contracts, and that is the key to the functioning of the act.

On clause 11 I make the point that when the bill was in the lower house the Minister for Planning sprang amendments on the chamber that neutered much of the impact of the legislation and weakened the original building and construction industry security of payment system. Opposition members were very concerned that would occur, and there has been significant discussion in the industry about those amendments.

Information has come to the opposition from sources who do not wish to be identified because of their positions. Those sources indicate that some of the push for these amendments came out of government departments. I want to place on record my disappointment that the government has responded to the need of those government departments to in effect protect themselves from the operation of the security of payment system. In protecting themselves they unfortunately deprive smaller contractors of the protections and rights that would have been otherwise there.

In the Legislative Assembly a few weeks ago the Minister for Planning sprang a surprise on members there when he moved his amendments. The impact of those amendments is too complex to disentangle. The first amendment was to clause 11; he sought to replace words and expressions with others contained in the amendment. That had a series of unfortunate effects, best described by what the Master Builders Association of Victoria (MBA) had to say in a media release of 14 June, under the heading 'Government protects itself ahead of industry':

> Victoria's peak building industry body today hit out at the Bracks Government for passing legislation that protects its own interests ahead of Victorian businesses.
>
> The master builders association said the revised security of payments (SOP) legislation, that last night passed through the lower house, aimed to protect the Victorian government as a developer by withdrawing rights previously granted to builders and subcontractors.

As an aside, the initial intent of the security of payment system was to provide that protection to builders and in particular smaller subcontractors, which is what the MBA said. The media release states:

> When initially introduced several years ago, the SOP legislation was hailed as a breakthrough to assist small and medium businesses with a quick fix system of adjudicators and an inexpensive process to settle disputes over payment.

When you look at this legislation and the principal act you find that both are arcane because of their complexity, but the practical effect was always intended to provide those protections. The opposition does not want to oppose this bill, but we wish to amend it by striking out the amendments moved in the lower house by Mr Hulls, and passed. The opposition wishes to restore those rights and privileges to smaller and medium contractors. The media release by the MBA goes further:

> But master builders executive director Brian Welch said the government's hidden intention was to protect itself ahead of the building industry, by capping the size of contracts where disputed variations can be made to $5 million or less.

It is important to get the sense of how this operates. He said:

> By capping the size of contracts the government has made sure large scale road projects and building works at schools and hospitals are not included leaving contractors at risk …

Hon. P. R. Hall — They are often the most vulnerable.

Hon. D. McL. DAVIS — as Mr Hall said, they are the most vulnerable. Mr Welch said:

> These projects will once again be subject to the commercial intimidation the original act sought to overcome.

The act sought to overcome those disputes that occur regularly in these sorts of building industries. There is no question that those disputes will occur. Often there are differences of view, variations or sometimes disputes which are generated wilfully by larger builders who are employing contractors. Mr Welch said:

> Should a dispute arise between the government as a developer and a builder over changes to the contract, the builder will face expensive legal battles against armies of government solicitors.

In effect the removal of these rights will mean that those subcontractors will be forced to go to straightforward old fashioned law — if you want to call it that — which is slow and cumbersome. The reality is that many small subbies hang on the payments that come through this system and are reliant on timely payments. When they do not get timely pavements, it would be true to say that their future is in jeopardy, that their existence as a viable business is in question, and people's family income is directly impacted by delays, obfuscation and legal fights.

When those legal fights are protracted, smaller operators will be at extreme risk. It is not unfair to say that the effect of some of the government's changes here will be to put the families of smaller subcontractors at risk. There is no doubt that some families will be driven to the wall because of future disputes with government where they will not be able to access security of payment legislation but will in effect be forced to go to the courts and take their chance on the long, slow and costly legal processes there.

Mr Welch also said:

> To make matters worse for builders many subcontractors will be able to use this legislation against builders — as subcontracts rarely exceed the $5 million cap.
>
> Unfortunately for builders they may now fall victim to payment delays on government projects and changes that often occur when bureaucrats are in charge — while their subbies will be able to pursue payment from the builder using this legislation.

The government has created a very messy situation. I do not think the slippery introduction of these amendments at the last minute in the lower house was the right way to get legislation clear. I do not think it was the right step for the government to take in the interests of the community.

The statement by the master builders further states:

> Mr Welch said the industry had made representations to the government on this issue, but its requests had fallen on deaf ears, adding the master builders had written to the minister and expressed its concern over this matter.
>
> He said the master builders was particularly disappointed because the government had promised this legislation would bring an equitable payment process to the building industry — a commitment it had now walked away from.

It is important to understand the process that occurred here. When the original version of this bill was introduced in the lower house the then planning spokesman for the opposition wrote, in effect on behalf of many in the building industry, to the minister saying, 'There is a whole raft of concerns with this legislation. You need to talk to people. You need to sit down and you need to get this right. It is complex. Many in the industry are concerned and confused about the impact, and we are asking you to pause'. The minister did pause, but I do not think the consultation that went on from that point was deep or careful enough to get to the right conclusion, as is evidenced by the minister's decision to introduce these amendments.

Contrary to the view that the government was responding to industry statements, the fact of the matter is — and I have no doubt as to the quality of the sources the opposition has on this matter — that the drive at cabinet level came from spending departments that have large construction and building contracts: education, health and roads. The reality is that those are

the departments that pushed these amendments and that, in effect, wanted to exempt themselves. I am concerned that the government has got this wrong. I understand there are some useful steps in the bill, but it is also important to place on record our concerns about the minister's changes to clause 11. For that reason we will move to delete the minister's changes and to reinsert the original words that appeared in the bill when it was first introduced into the lower house.

I do not want to say a great deal more about this, but I want to put on record, as I have in this house before, the importance to this state and to the overall economy of the building and construction industry due to the size of the sector and the amount of employment it generates. This government is getting it wrong increasingly. We have expressed concerns as an opposition and as members of Parliament reflecting the concerns of our local areas about the government's Melbourne 2030 strategy and its impact cutting in hard in some areas.

There are also other areas of concern. For example, I was at a meeting recently at Mornington, down in Mr Viney's neck of the woods. I see he has entered the chamber. I was concerned about what was occurring there with the government's planning policies and the impact that Melbourne 2030 is likely to have on a small town like Mornington. Mornington is a seaside town where people move to get away from Melbourne and have a different lifestyle, one that reflects more rural values without the high-density development that we are used to in Melbourne.

There was very little doubt about what the 500 people at that meeting at Mornington thought. The meeting voted overwhelmingly to reject the urban design framework that the council was trying to put in place, which would see four and five-storey developments that would be completely out of character with the town. The minister's decision on the day before the meeting to put interim height controls on the town was a reactive decision of a minister on the run, a minister under pressure, and it will not solve the problem. The reality is that on 30 June 2008 the full force of Melbourne 2030 will still apply. The reality is that in the interim developments of up to four and five storeys may occur in Mornington under the minister's interim height controls and may fundamentally change the character of that town. Mr Viney may well laugh, but he should understand the peninsula better than most people in this chamber, and I would have thought that — —

Mr Viney — Nice try. You know I don't even agree with that.

Hon. D. McL. DAVIS — I would have thought Mr Viney would understand the peninsula better than most people. I have to say I was concerned to see Rosy Buchanan, the member for Hastings in the other place, at the meeting sitting back quietly and not voicing an opinion. Geoff Hilton was at the meeting too, and he was sitting quietly at the back, afraid to step forward and voice an opinion to this large and hostile public meeting — —

The PRESIDENT — Order! Mr Davis will use the member's correct title.

Hon. D. McL. DAVIS — Yes. The Honourable Geoff Hilton.

The PRESIDENT — Order! Or Mr Hilton.

Hon. D. McL. DAVIS — Mr Hilton was at the meeting but he too sat quietly at the back and was afraid to come to the front of the public meeting. Mr Puls, the Labor candidate for Mornington, misjudged the mood of the meeting with his idea that Melbourne 2030 should be applied to the peninsula — —

Ms Carbines — Is this about security of payment legislation?

Hon. D. McL. DAVIS — I have got to say that construction is very much about security of payment and I make the point that construction around the state is being impacted on by the government's planning approaches. There is no question that it is getting much of this wrong, as it has got these things wrong on the Mornington Peninsula by rolling it into metropolitan Melbourne's planning strategy. In conclusion on this bill I make the point that the government has a number of aspects of this wrong. I wish it had consulted more broadly.

I flag to the chamber that in the committee stage we will move an amendment which we think will lead to a fairer outcome. It will be an outcome that in particular aims to protect the smaller subcontractors who will be exposed under this system.

Hon. P. R. HALL (Gippsland) — I am pleased to present the view of The Nationals on the Building and Construction Industry Security of Payment (Amendment) Bill. It was through consideration of this bill in our party process that we decided that this is a supportable piece of legislation, and indeed it was because of the feedback we received through our planning spokeswoman, the member for Shepparton in the other place, Mrs Jeanette Powell — who as usual did a very thorough job in talking to construction

companies about this bill and gave us some positive feedback — that we took the decision to support the legislation.

That being said, we need to think about the concerns highlighted by Mr David Davis today with respect to the last-minute amendments introduced by the government in the Legislative Assembly, which I might add did not give members of The Nationals an opportunity to consider them. I have listened carefully and taken Mr Davis's concerns on board because I think the points he raised are very valid, and if it is that the master builders association has expressed its concern, as has been put on the record this afternoon, then we should rightly be worried about them. I will listen with interest to the committee stage of the debate and the minister's response to those issues because, as I said, I think the comments made by Mr Davis have strong validity, and if that is the case The Nationals are prepared to support the Liberal Party's proposed amendments to withdraw the amendments introduced by the Minister for Planning in the other place.

In terms of preparing to speak on this bill, I went back to the original Building and Construction Industry Security of Payment Act 2002 and reminded myself of the purposes of that act, which are to:

> provide for entitlements to progress payments for persons who carry out construction work or who supply related goods and services under construction contracts.

My personal experience is that in the past I have been involved with several building contracts which contained clauses requiring progress payments. Reading through the act a bit further I noted that section 7, headed 'Application of Act', specifically mentions that the act does not apply to construction contracts which are domestic building contracts within the meaning of the Domestic Building Contracts Act 1995. I have signed domestic building contracts before which provided for progress payments. I understand this legislation was essentially targeted towards construction projects which are other than domestic building contracts, or other than contracts that form part of a loan arrangement.

I think the concept of progress payments is an admirable one because it protects both parties. It protects the consumer in terms of having better assurance so that what you are expecting from your principal contractor for a project is actually delivered, and you do not make that progress payment until you are satisfied that that particular stage of the building contract has been delivered to the standard that you would expect. For the principal contractor it ensures that he does not have to wait until the end of the job before he is paid for it. The whole concept of a progress payment is an admirable one, and one which is well supported in the domestic building industry. I am more than pleased to see that 2002 act extended beyond domestic building to some more general construction industry projects. So the concept of progress payments is one that we would certainly support. As I said, the 2002 act gave legislative structure to enable progress payments to be inserted into general construction contracts.

This amendment bill looks at that act and makes some amendments to it following a review of the act in 2004 commissioned by the Minister for Planning. I understand the member for Mitcham in the other place chaired that review process in consultation with industry and an extensive report was produced as part of that review. I have had a look at that report. Although I have not had an opportunity to read it in detail, the report canvasses a number of issues. I am sure that is predominantly why the industry has said this amendment bill arising from recommendations of the review needed to be introduced and why it was prepared to support it.

Some of the areas of amendment are rather technical in nature, but I will try to summarise them. Firstly, there is an expansion of the application of the act to include a wider range of payments, including final payments, single payments and milestone or key event payments. Secondly, it limits claims under the act to exclude claims for damages, delay costs and latent conditions together with disputed variations where the contract provides a mechanism for determining whether there is an entitlement to be paid for a variation. Some of those issues get fairly complicated.

It also allows for easier enforceability of the adjudicator's determinations, including an expedited process for a claimant to enforce payment of an adjudicated amount. I think that is particularly relevant. If you are a small contractor, a gun can be held to your head in some regards by the slow payment of both a contract provision and an adjudicated amount. It is important that those payments come through quickly to allow smaller contractors to survive financially. The bill also introduces a new process for aggrieved parties to seek review of an adjudicator's determination in certain limited circumstances. It also limits the application of the act to items of work carried out in the previous three months.

Those are some of the principal changes. As I have said, and as has been more extensively canvassed by the Honourable David Davis, there were some last minute changes regarding variations to contracts which

seemed to limit the total value of those contracts but also the variation compared with the total contract price. As I understand it, they are explained in clause 11 of the bill, which inserts new sections 10A and 10B into the principal act. Under the heading 'Claimable variations' new section 10A(3)(d), which seems to limit the contract value to $5 million, is inserted, but more importantly under new section 10A(4) it states:

> If at any time the total amount of claims under a construction contract for the second class of variations exceeds 10% of the consideration under the construction contract at the time the contract is entered into, sub-section (3)(d) applies in relation to that construction contract …

My understanding is that if the principal contractor experiences variations in excess of 10 per cent of the total value of the contract then those default provisions — that is, the security of payment provisions — no longer apply. That is my understanding of this clause. If that is the case, the words of the master builders association, as quoted by the Honourable David Davis, should ring some alarm bells, because those major projects — which might include a new school or a new road — are where a lot of subcontractors are most vulnerable. I am sure we have all experienced projects within our electorates where the principal contractor has gone broke, disappeared or whatever, and other small local contractors have been left without recourse to payment for the works they have undertaken or indeed the goods they have supplied. That is against the intention of the 2002 legislation which was really to provide better protection for those subcontractors.

There are a couple of issues arising from the second-reading speech that I shall quickly comment on. As it says in the second-reading speech, the intent of this amending bill is to further improve security for the protection and the rights of subcontractors. In the legislation, 'subcontractors', by definition, refers also to those who supply goods and services for a construction project.

If you think about it, there is a myriad of subcontractors engaged on any construction contract. You probably start with architects and engineers but on top of that there are builders, bricklayers, plumbers, electricians, concreters, tilers, floor specialists, carpet layers, airconditioning specialists and cabinet makers. There will be people who supply specialty goods like windows and so forth, there will be landscapers, fencing contractors — the list goes on and on. It is likely that on any major construction project, and even any domestic building project, an incredible number of subcontractors will be involved.

While subcontractors may provide a good or a service to just a small component of the construction project, if they are not paid in a timely fashion, many of them can ill afford to wait until the project has been completed. That is why the concept of a progress payment is supportable.

Small subcontractors are most vulnerable on the bigger construction projects when they are dealing with what might be a major international construction company. The local plumber or the local cabinetmaker is often in a position where it is difficult for him to have to deal with multinational companies whose head offices and decision-makers may be in a distant place, such as a capital city somewhere else in Australia or overseas.

The intention of this legislation was to put in place measures to protect those people. We would be most concerned if the amendments moved by the Minister for Planning in the other place diminished in any way the protection measures afforded to subcontractors; certainly the master builders association has expressed that view.

The other comment that I want to make is that on page 2 the second-reading speech says:

> The bill is modelled on the provisions and processes of the amended NSW act and the similar recently enacted legislation in Queensland.

I think there are good reasons for us to try to achieve some degree of consistency across Australia in not only this area but others as well. The building and construction area, which adds greatly to the economic value of this state and this country, is important. If it is achievable, we should look towards having uniform legislation in that area.

Another issue within the building and construction industry is builders warranty insurance. That has been and continues to be an issue of hot debate inside and outside this chamber. If we are trying to achieve some national uniformity in respect of security of payment processes in this industry, then I think we should also be looking for some uniformity in builders warranty insurance across Australia.

I know the Queensland model has been a model that has been advocated very strongly from an element of the building industry, yet I do not think the government in Victoria has given due consideration towards putting in place a system of builders warranty insurance that provides comfort for consumers and also protection for the industry itself. I urge the government to look at having some national consistency with builders warranty insurance in the same way it is looking to

achieve some national consistency with this security of payment legislation that is before the house this afternoon.

As I said, The Nationals considered this legislation closely. We sought feedback from those involved in the construction industry, and generally the feedback we received was positive; therefore we made the decision to support the legislation. However, I repeat that we share the concerns expressed this afternoon — and expressed by industry groups as well — that the amendments introduced when this bill was in the other place have caused us some concern and alarm. If their effect is to reduce the security and protection for small subcontractors, then we would be most concerned about those provisions. Therefore, we will listen very carefully to the minister's response when that issue is raised during the committee stage of the bill.

Ms CARBINES (Geelong) — I am very pleased to speak in support of the Building and Construction Industry Security of Payment (Amendment) Bill. I welcome The Nationals' support for the bill and foreshadow that the government will not be accepting the amendments which the opposition will move in the committee stage.

I am the product of a building and construction family. Both sides of my family come from the building industry. My father worked for many years as a painter and decorator in both the private and public sectors. My brother also was a painter and decorator, although he is not one now. In his formative years he worked as an apprentice painter and decorator and ended up being the state secretary of the former painting union in Victoria.

My family, the Cafferty family, has a very strong link with the building and construction industry; that link is also in the Carbines family. My father-in-law, Eric, although he is now very firmly retired, was a builder throughout his working life. I remember him telling me that the bane of his life was people who did not pay him — people who had a job done by him and then forgot to pay him. That was a serious issue for him and his family.

It is an issue for many people who work in the building and construction industry. I know from my family experience that the flow of money in the building and construction industry for work that is done is vital to keep it going, especially for builders who are operating on very tight margins in small businesses.

In its first term the government set up a ministerial task force which was chaired by my colleague the member for Mitcham in the other place, Tony Robinson. The task force included representatives from across the building and construction industry — owners of construction companies, builders, head contractors, subcontractors, suppliers, unions, employees, employers and of course cost management specialists. Its work was to look at how we can improve the regulation around the security of payments in this state — how we can expedite the process to make it easy, to make sure builders get paid in a timely manner — and to have a dispute resolution process in place.

The task force made recommendations to the government regarding the need to improve the state's legislation to protect all stakeholders in the building industry, particularly from those larger companies that sometimes refused to pay or delayed payment for work that had been completed. Of course this was having a dire impact on small businesses in particular, some of which were becoming insolvent due to this fairly widespread practice.

The ministerial task force's recommendations formed the basis of the security of payment legislation which was passed in 2002. The gist of that legislation was to provide a very cost-effective, non-legalistic and fast recovery for non-payment of money owed to subcontractors and also to provide a third-party adjudication process for disputes. When I was first elected I would often read in our local papers about disputes between contractors, subcontractors and large development companies in Geelong, and I know that this legislation has gone a long way to resolving many of those disputes that took place early in this government's first term.

The legislation was not passed until 2002. At the time the legislation was introduced the then planning minister in the other place, the Honourable Mary Delahunty, committed to review the operation of the act to see just how it worked — that is, if it worked well for all parties in the building and construction industry. Tony Robinson was again asked to chair the working group. It was a very inclusive group, with representation from all key sectors of the industry.

The working group made unanimous recommendations to the government to improve the legislation, and those recommendations form the basis of the bill before us today. The recommendations include clarifying the types of payments covered by the act, allowing claimants to apply for an adjudication where no payment schedule is served in response to a claimant's claim, expediting the process to enforce payment of a statutory debt through the courts, and defining amounts that are not agreed variations and are therefore excluded

from the scheme. Importantly this bill brings Victoria into line with Queensland and New South Wales, which gives greater consistency, uniformity and therefore certainty to companies operating interstate.

This bill amends the Building and Construction Industry Security of Payment Act 2002 by extending the coverage of the legislation from merely progress payments to final, single, one-off and milestone payments. I heard Mr Hall talk about the value of progress payments in their various forms to the builder and to his or her clients. Friends who have been making progress payments along the way as they built their house told me they found it a very useful way of monitoring whether the builder was completing the work as they had demanded of him through their contract. They were very pleased to be able to pay him progress payments along the way as each milestone was reached.

This amending bill will bring a wide range of disputes under the coverage of the principal act and therefore within the coverage of the adjudication system, and that deserves support. It will also make it easier to obtain a court order for any unpaid debt, which system is based on the New South Wales model. We have accepted what we think are good ideas from our sister state and are incorporating them into this legislation.

The bill will allow claimants to apply for an adjudication where a respondent has failed to respond to or pay a payment claim within a certain time. It very importantly sets a cap of $5 million for contracts to be covered by the legislation. This is an important piece of information.

When he outlined the reason the opposition will seek to amend the legislation during the committee stage, the Honourable David Davis spoke of the concern expressed by the Master Builders Association of Victoria about contracts its clients may have with state government departments. It is important to know that about 90 per cent of government contracts total less than $5 million and are therefore covered or captured by the amendments proposed in the bill.

The argument advanced this afternoon by Mr Davis, that the government, by introducing those amendments in the lower house, was in some way seeking to exclude itself from scrutiny or the dispute resolution process, is spurious. That is a nonsense. As I said earlier, some 90 per cent of government contracts will be captured by this bill because the contracts are for amounts less than $5 million. In this way, just about everyone in the subcontracting sector will be covered by the security of payment scheme. Contracts of more than $5 million are excluded from the scheme, so 10 per cent of government contracts will be excluded. These are usually very large and complex contracts which will be dealt with, as always, under the normal contractual dispute resolution processes.

The bill also stipulates that a claim must be made within three months unless specified in the contract. It also introduces a limited review process for parties who are dissatisfied with an adjudicated determination. This will apply only in cases where the adjudicated amount is at least $100 000.

The bill is in response to the review of the act that the Minister for the Arts in the other place set up when she was planning minister. It was an inclusive and consultative process that involved key stakeholders from across the building and construction industry. They put to the current planning minister in the other place, Rob Hulls, unanimous recommendations that form the base of this bill.

We know that the amendments proposed in this bill have very broad support, and we know that the bill will work to further assist Victoria's very important building and construction industry. It is important to recognise that it will be easier for any person who carries out building and construction work to promptly recover progress payments. It also provides a very quick and inexpensive mechanism for contractors, subcontractors and consultants to be paid pending final resolution of any disputes under a contract.

It is a timely and important bill. It will certainly assist the building and construction industry in our state, and it deserves the support of this house. I wish it a speedy passage.

Hon. B. N. ATKINSON (Koonung) — Government members are obviously very interested in this piece of legislation and share Ms Carbines's views that it is an important piece of legislation — yet, if it is so important, why have only Ms Carbines and the minister been in the chamber for most of the debate? Apparently the government whip has been very busy trying to find members and is now wandering around the house, wondering where members may be. I wish her good luck in getting at least some government members into the house.

I suggest that this legislation is timely and important, and that it has some merit, but the real issue about the legislation is whether it will work and whether it will achieve the intent the government has applied to it. Had the government talked about and exposed the draft legislation to the review group chaired by Mr Robinson,

the member for Mitcham in another place, or indeed to any of the industry associations, it would have found that a great many organisations are concerned about its various aspects and its workability.

They are concerned about the cap that has been discussed by a number of members in the debate, and even the application of this legislation to the area that is of greatest cause for concern in the industry, which of course is variations. Most of the associations would suggest that variations give rise to the greatest number of disputes in the building industry. The reality is the minister has not consulted adequately with the industry associations. The original review group set up by the then planning minister, the Minister for the Arts in another place, Mary Delahunty, certainly undertook a process of consultation that led to the 2002 legislation.

A task force looked at that legislation and looked at further improvements that might be made, and indeed conveyed a series of recommendations to the government, most of which have been ignored. The government, in introducing a number of clauses in this legislation, has failed to take account of industry experience and industry advice on issues the industry believes will result in a continued environment of disputation and a failure of this legislation to address those issues.

While the industry groups believe there has been some progress towards some consistency with other states, notably New South Wales and Queensland, which in many respects are the most important jurisdictions, along with Victoria, in terms of the coverage of this type of legislation, the reality is there are still a number of areas in the Victorian legislation which are at odds with the legislation in those other states. In fact, I am persuaded by industry groups that one of the reasons for the $5 million gap is this government was spooked by legal action in New South Wales involving a company called Contrax Plumbing. That company was involved in a dispute with the New South Wales Department of Commerce over a $1.2 million claim. An adjuster granted the company a sum of $1.1 million and the New South Wales government has appealed that judgment. However, Contrax Plumbing is in liquidation so the New South Wales government does not stand much chance of recovering that sum should it win the appeal.

It would seem that the Victorian government was concerned about what exposure it might have had if it had gone down the New South Wales path. However, the reality is the New South Wales legislation has been well tested in the courts and there is now an understanding of how it operates. The building industry, particularly those who operate in a national context, has some comfort about the way the New South Wales legislation has been established and certainly would have liked to see the Victorian government more closely mirror New South Wales. That has not happened and from an industry point of view that is an opportunity lost. More importantly, it gives rise to a situation where it is likely this legislation will need to be determined in Victorian courts. In other words, far from being settled, disputes are likely to give rise to further legal action to establish whether the legislation that is provided here is adequate to address the issues that arise in the building industry.

I note that in talking about the $5 million cap which the government has placed on the coverage of this legislation Ms Carbines suggested it affected a fairly small number of total government contracts. I think that is rather a mischievous claim because I suggest it lumps together all government contracts, of a building nature perhaps but nevertheless all government projects — both maintenance and construction. I think it is quite fair that many maintenance contracts would be considerably less than $5 million but as a rule maintenance contracts do not give rise to a great level of disputation. Usually there is an opportunity to appraise exactly what the works are and to undertake those works. That maintenance area covers most government contracts, overwhelmingly the majority of government contracts.

However, the reality is construction projects are at the higher end. I daresay most government construction projects get very close to the $5 million figure, or in many cases go over $5 million. There are not many schools that you would get for less than $5 million. There are not many roads that you would get for less than $5 million. There are not many water projects or other civil contract works that you would get for less than $5 million. The reality is most construction projects the government is involved in, as distinct from maintenance projects, will be excluded from this legislation by dint of the cap that has been introduced.

As was indicated by the previous Liberal speaker in outlining the Liberal Party's position on this legislation, the master builders association has some very serious concerns about this bill, but so too do a number of other organisations. In a process dating back to earlier this year, and before that in terms of review group activities, they have sought to have the government look at the technical aspects of this legislation and understand exactly how they will apply in the marketplace and how they will work to address disputation and ensure security of payment for contractors. The industry associations are not at all convinced that this highly

technical and complex legislation will really deliver. Indeed, the legislation does not reflect the recommendations contained in a task force report. As I understand it, the legislation falls short of the task force report in the area of disputed variations. Disputed variations, as I have indicated to the house, are the primary area of payment disputation in the construction industry.

I understand that the recommendations in respect to disputed variations were strenuously opposed by the transport portfolio in the government. In an attempt to salvage something out of the process on the security of payment legislation the government came up with the idea of the $5 million cap. Clearly it was an attempt to appease some departments within the government, but it has resulted in a piece of shandy legislation which, as I said, the major organisations involved in contracting and subcontracting covering both large businesses and certainly the small businesses I have great concern about in my portfolio responsibilities, are not convinced that this legislation will achieve anything like what the government intends in terms of reducing disputation and improving contractual payments and that process.

That is not to say that this legislation is not seen as a step forward because it is by the Liberal Party and by The Nationals, as Mr Hall has indicated to the house today, and indeed by the industry associations which I have personally consulted and I know my colleagues have consulted. It is simply to say that this legislation could have and should have been better. It would have been better had the government made the effort to do some further consultation with the industry associations.

In fact, one of the areas of concern that has been raised with me by industry associations is that the debate on the bill in the Legislative Assembly missed two very important issues. The first is an education program to support small businesses to understand their rights and obligations under this legislation. This was never effectively done when the initial legislation was introduced in 2002, although some attempts, which industry groups have described as mediocre, were made by the Building Commission. The government is free and easy with its advertising but it failed to inform people in the building industry what that legislation was designed to achieve and thus failed to achieve better compliance and goodwill in security of payments.

The second issue that has been missed is the development of pro forma claim forms for use by small business. The development and use of standard forms is particularly important in assisting small businesses to understand what they need to do in order to have a claim adjudicated. The adjudication process is seen as very important in this legislation, and there are some concerns about that from industry associations. However, a move towards adjudicated claims rather than highly costly and drawn-out court proceedings is certainly seen as a significant step forward.

It is of continuing concern to a number of organisations that this legislation has some loopholes which, it is believed in a technical sense, will allow parties who owe moneys to continue to string out those payments, notwithstanding the assurances that have been given by Ms Carbines and that are contained in the second-reading speech. The master builders association sees some significant problems with this legislation, including the fact that head contractors do not set terms in clients' contracts, dispute resolution or otherwise. Yet that is sort of anticipated in many ways in the way the legislation has been drafted. Head contractors are also often subject to clauses in building contracts that compel them to undertake variations at the clients' whim, yet those variations are an area of significant dispute that are not resolved by this legislation. As variations can represent up to 30 per cent of the cost of many building contracts. It is a significant problem.

Head contractors also often face significant liquidated damages for late delivery, even where there is a legitimate reason for the extension of time for non-payment, or creating a legitimate reason for extension of time for non-payment, despite the fact that subcontractors are obviously put at risk in that process. Exclusion from this legislation leaves contractors susceptible to commercial intimidation with respect to some of these provisions because the definitions are still not fully worked out in a way that satisfies some of the technical and practical applications that this industry would understand as a result of the way it works. It is a complex and diverse industry.

It is interesting that the Minister for WorkCover and the TAC and I recently attended a Master Builders Association of Victoria awards night. We witnessed quite a range of awards that were given to building contractors for some outstanding projects built throughout Victoria. It struck me on that night that very few of those projects that won awards are covered by this legislation because very few of those projects were under the $5 million cap. So for all intents and purposes the legislation sets out to achieve a particular result, but as a result of this government's compromised position — seemingly because it was spooked by the New South Wales court case involving Contrax Plumbing and the New South Wales Department of Commerce — it has come up with a piece of legislation that really needs further work. I urge members of this

house to take the opportunity to get it right the first time rather than to enact this legislation and have to come back again on another occasion.

Ms ROMANES (Melbourne) — I am pleased to have the opportunity to speak on the Building and Construction Industry Security of Payment (Amendment) Bill which brings improvements to the legislation that was put through this house in 2002. I note that both Liberal Party and The Nationals speakers have acknowledged that the amendments we are dealing with today provide a step forward in the operation of these provisions. Although there is some disagreement about whether the legislation addresses all the issues facing the industry, it does signify and embody extra provisions that will tackle corrupt practices involved in withholding payments to those who carry out work in good faith.

Talking about security of payments in the building and construction industry takes me back to a conversation I had with an architect friend some years ago in the mid-1990s. That friend spoke very highly of the Grollos and said how well liked they were in the building industry by their workers. When I queried why that was the case I was told by this architect who worked in the industry that the Grollos treated their workers well and paid them well. That was in contrast to many other large construction firms who deliberately withheld payments and used their commercial muscle to make it difficult for contractors and subcontractors to take them into the courts and to seek payment and redress. That was a revelation to me, and of course those sorts of practices culminated in the situation where, following the 1999 action of the New South Wales government, the Bracks government in 2002 introduced security of payment legislation in Victoria. That has been followed by legislation in other states.

I note in the Clayton Utz newsletter dated 31 January 2005 a discussion about how the security of payment legislation operates and a very good summary of the intention of the legislation. It states in this newsletter of the Australian construction law section of Clayton Utz that the legislation is intended to protect contractors, subcontractors and suppliers in the building and construction industry from poor payment practices and to ensure the timely flow of moneys to those parties performing construction work or supplying related goods and services. What most interested me about what the newsletter stated in this edition was the sentence:

> The rapid adjudication process and other statutory rights which sit alongside the contractual regime have revolutionised the treatment of payment in the construction industry.

That is a vote of confidence in what has happened through state government legislation across the country and the way security of payment legislation supports the building industry.

Hon. B. N. Atkinson — Acting President, I view with some disdain that throughout most of this debate there have been but two government members in the chamber, and I draw your attention to the state of the house.

Quorum formed.

Ms ROMANES — As I was saying before Mr Atkinson called for a quorum, in its newsletter Clayton Utz says that the rapid adjudication process and other statutory rights which sit alongside the contractual regime have revolutionised the treatment of payment in the construction industry. It is a statement of confidence in what has happened through the introduction of the security of payment legislation, which supports participants in the building industry pursuing the payment of money owed to them by contractors higher up the contractual chain who may not pay their bills on time — if at all.

The features of security of payment legislation can assist contractors' cash flow and the ability to prosecute underlying payment disputes and to bring those, as the newsletter outlines, to a final resolution by courts or other dispute resolution process. An important point made in the newsletter is that the legislation can effectively shift the risk of non-payment from contractors to owners and from subcontractors to contractors. The security of payment legislation has been a very significant reform in the building and construction industry from when it was first introduced in New South Wales in 1999. The development and implementation of similar legislation in the states that have introduced it since then have been progressed in different ways in different areas.

Members may recall that Tony Robinson, the member for Mitcham in the other place, chaired an industry task force which developed the principles and provisions of the 2002 legislation and through that legislation set out to change the culture of payment practices in the building and construction industry. We are beginning to see changes in that area. Since then we have had a review that was overseen by the Victorian Building Commission, the body responsible for administering the act, which involved industry players who looked at how the legislation was being implemented and whether further improvements could be made.

As my parliamentary colleague Ms Carbines explained so eloquently, this bill picks up a lot of the provisions in other legislation, particularly in New South Wales and Queensland, and brings Victoria into line with the other states. That will be of benefit to builders and contractors who operate across borders and also demonstrates that Victoria can learn from and implement appropriate practices, legislation and guidelines applying in other states to Victoria's building construction sector.

I do not have any problem with that, and I do not understand why some members of the opposition do have problems in that regard. If there are good things happening in other states, I do not see why we cannot learn from them and adopt those practices here. One of the objectives many people would like to see happen is of course the development and adoption of a national regulatory regime in this area.

Ms Carbines outlined very well, as I mentioned before, the various provisions of the bill which tighten up enforcement and make the operation of the act more effective through adjudication processes, therefore enabling faster recovery of adjudicated amounts through the courts and improving administration and operating efficiencies.

She also outlined the fact that the legislation, following the passage of the bill, will apply to a wider range of payments, that there will be review processes within the adjudication provisions and that the legislation will contain a definition of 'excluded amounts', such as damages, delay costs and latent conditions which cannot be claimed under the adjudication provisions.

Most importantly, I want to refer to the variations claims that are outlined in clause 11. This relates to the house amendments which were introduced and passed in the lower house and which are now included in the bill. Contrary to the claims of the opposition that the government is not listening to the industry and not consulting sufficiently, those very amendments flow from a number of representations made by sectors of the building industry after the bill's introduction. Representations identified that the variation provisions would reduce the number of claims that could be taken to adjudication.

The government has taken on board this feedback, and the proposed amendments now extend the range of disputed variations that can be claimed under the act. As Ms Carbines said, despite the opposition accusation that government departments are protecting themselves from involvement in these processes, 90 per cent of government contracts are each for less than $5 million and will be caught within the legislation that we are dealing with.

I was listening in my room to the contribution by Mr David Davis. He made the point that the legislation would deprive smaller contractors of the protection of this legislation. The facts do not hold up his argument in that area. The security of payment legislation is designed to afford a mechanism and means for helping small contractors and small builders to promptly recover progress payments.

In conclusion, I want to pick up the last two points that were made by Mr Atkinson — that is, the need for promotion and the need for a good education and awareness campaign. I am not in a position to judge how well that was done at the time the principal act was introduced, at the beginning of 2003, and whether the industry was widely blanketed with information about the security of payment legislation and its implications for the industry, but I have seen brochures and pamphlets from the Building Commission and it is my understanding that there has been activity in that direction.

Motion agreed to.

Read second time.

Committed.

Committee

Clauses 1 to 10 agreed to.

Clause 11

Hon. D. McL. DAVIS (East Yarra) — I make the point that amendment 1 will also test amendment 2. I move:

1. Clause 11, page 10, lines 7 to 34, and page 11, lines 1 to 38, and page 12, lines 1 to 9, omit all words and expressions on these lines and insert—

"(a) the parties to the construction contract agree—

(i) that work has been carried out or that goods and services have been supplied; and

(ii) that the person for whom the work has been carried out or the goods or services supplied requested or directed the carrying out of that work or the supply of those goods and services; and

(b) the parties to the construction contract do not agree that the doing of the work or the supply of the goods or services constitutes a variation to the contract; and

(c) the parties do not agree as to one or more of the following—

(i) that the person who has undertaken to carry out the work or to supply the goods or services under the contract is entitled to a progress payment that includes an amount in respect of that work or those goods or services;

(ii) the value of that amount;

(iii) the method of valuing that amount;

(iv) the time for payment of that amount; and

(d) the contract does not provide a method for resolving the dispute referred to in paragraph (c).''.

In moving this amendment — and I referred to this in my contribution to the second-reading debate — I reiterate the opposition's concern at the way the amendment was moved in the lower house. It is true that there was a period when this bill laid over; it is true that the then shadow planning minister wrote to the minister and asked for broader consultation with the industry; it is true that some of this consultation occurred. However, it is equally true that the minister appeared not to listen to a lot of that consultation and did not appear to understand the concerns of smaller subcontractors and smaller builders. This amendment will restore the bill to its original shape and thereby restore the rights of those smaller contractors and builders.

The truth of the matter is that the government has sought to exempt itself from many of the provisions of this bill. Ms Carbines is shaking her head, but that is not the view of serious industry players who have spoken to me — and I have quoted at length, and perhaps I will again, some of the comments by the Master Builders Association of Victoria. The fact is it does put smaller contractors at risk, and it has been driven by some of the large government departments

In her contribution to the second-reading debate, Ms Carbines simply failed to recognise the fact that many government construction contracts have changed. The effect of the act has been changed by the amendments moved by the Minister for Planning in the lower house, and the position of smaller contractors will be restored by removing those amendments. I have to say that if the minister were sincere about the amendments, he would have made them publicly available before they were moved in the lower house at the time. He would have made his amendments public at an earlier point and thereby allowed the community and the subcontracting industry to scrutinise them more closely. Instead of that he whipped them out at the last minute, and in doing so did not enable the lower house to have the level of scrutiny that would have been desired.

I do not think he, or indeed Ms Carbines, would deny the complexity of those amendments, or indeed of the bill itself, and I see Ms Carbines nodding. Even bright people find some difficulty in following their way through the various aspects of this bill with its descriptions and so forth. It is important in moving this amendment to put on record again the comments by Brian Welch of the Master Builders Association of Victoria, who said:

> … the government's hidden intention was to protect itself ahead of the building industry, by capping the size of contracts where disputed variations can be made to $5 million or less.
>
> By capping the size of contracts the government has made sure large-scale road projects and building works at schools and hospitals are not included leaving contractors at risk.
>
> These projects will once again be subject to the commercial intimidation the original act sought to overcome.
>
> Should a dispute arise between the government as a developer and a builder over changes to the contract, the builder will face expensive legal battles against armies of government solicitors.
>
> To make matters worse for builders many subcontractors will be able to use this legislation against builders — as subcontractors rarely exceed the $5 million cap.

I have to say that there is a series of perverse incentives created by the government's amendment and this section of the bill, and we are quite concerned about it. For that reason we will move this amendment and seek to test the government's position. I would be happy to see the chamber look at this in a dispassionate way and focus on the interests of subcontractors and of smaller builders, because we owe it to them to get this right.

Mr GAVIN JENNINGS (Minister for Aged Care) — Obviously the government does not support Mr David Davis's amendment. I acknowledge that Mr Davis in his comments has indicated that part of the concern about the interpretation of the amended legislation the government has brought to the chamber is derived from the complexities that deal with contractual arrangements, and perhaps the legal complexities that the bill has tried to address have proved to be difficult terrain for parties in the construction industry, not only in Victoria but around Australia and elsewhere.

Consequently the government has an understanding of the need to address and be able to give confidence to the sectors of the industry on those degrees of

complexity in trying to provide for certainty and confidence going forward. We acknowledge that we are trying to create a dispute resolution process that we believe will add value to the sector and prevent lengthy forms of litigation before the courts which inevitably will lead to an increase in the number of people taking up opportunities under the dispute resolution mechanisms.

That is the starting point of the government's legislation and its amendments. It is important for me to emphasise that the intention of the government is to increase the scope of matters that may come before a dispute resolution rather than limit it, which is the proposition that Mr Davis had put to us. In fact the government asserts — —

Hon. D. McL. Davis — Not just me, but others.

Mr GAVIN JENNINGS — And others — and I will reflect on that in a second. I know that Mr Davis relies pretty heavily on one press release.

Hon. D. McL. Davis — It was a very clear press release.

Mr GAVIN JENNINGS — Yes, but the member relies pretty heavily on one source and one interpretation. In fact it is the interpretation that I want to get to in a minute, but perhaps the member will assist me by allowing me to complete the comment that the government is making sure that it increases the matters that can come before the dispute resolution process rather than limit them. We have added a class of issues and variations that may be dealt with by dispute resolution.

Going to the reliance of Mr Davis and others on a press release by the master builders association which alleges certain motivation by the government, I absolutely and categorically refute the assertion and the allegations made in that press release and the argument put and say that the evidence that I have been provided with in relation to the nature of the construction contracts that the government enters into flies in the face of that allegation.

When I was briefed on this bill in preparation for the committee stage I asked officers to provide me with information about the nature of contractual arrangements that the government enters into so that I can respond to the master builders association and Mr Davis's allegations that the government was trying to quarantine itself from exposure to this process. I have been provided with information which has provided me with a degree of certainty. As an example, a couple of major departments that are involved in major construction capital works throughout the Victorian public sector are the Department of Human Services, the Department of Education and Training and the Department of Infrastructure. I have been advised that all of those departments have construction programs that would see over 90 per cent all projects that each of those departments enter into having a contractual value of less than $5 million. That is the case over the last three years — more than 90 per cent of those contracts are of that lesser amount.

Hon. D. McL. Davis — This is construction contracts, not construction and maintenance contracts — just contracts?

Mr GAVIN JENNINGS — Contracts.

Hon. D. McL. Davis — I think that is construction contracts.

Mr GAVIN JENNINGS — Capital contracts that have been entered into by these departments. In over 90 per cent of those cases the sums involved were less than 10 per cent of the contracted sum.

Hon. D. McL. Davis — Can you make that available?

Mr GAVIN JENNINGS — I believe I will be able to validate this material at a certain time. I have been provided with this information, perhaps not in a form that I can table, but I certainly stand by what I have said to the committee in relation to that matter on the basis of the advice that I have received. I absolutely and categorically refute the allegation that the heart of the government's motivation was to exclude the government from the application of this bill, and assert that it is the government's belief that the capping figure of $5 million is an appropriate figure due to the nature of the scale of the work that is involved in the construction industry in Victoria.

Firstly, it would be a useful figure in terms of roping in the vast majority of contractual arrangements to the scheme rather than roping them out. Secondly, the government proposes that if any contractor enters into a contract arrangement involving more than $5 million, the nature or scale of that work will warrant that those entering into those contracts will be well and truly supported by legal and accounting advice that will enable them to manage the affairs of those contractual arrangements. Therefore we believe if a dispute were to arise in those circumstances, it would be likely to be dealt with within the terms of what would be complex, sophisticated contractual arrangements that would deal with mechanisms for arbitration dispute resolution within the terms of the contracts themselves.

If the contractual arrangements were not sufficiently sophisticated to deal with those matters, then the parties involved would be of sufficient standing to be able to pursue their rights and entitlements through the courts. We have confidence in the $5 million figure, and I can convey confidently to the committee that this mechanism will not be used to exempt the application of contractual arrangements entered into by the state of Victoria. The vast majority of construction contracts the Victorian government enters into will fit within the scope of the bill. For those complementary reasons the government will not accept the amendment moved by Mr Davis.

Hon. D. McL. DAVIS (East Yarra) — I thank the minister for the discussion on this point and for some of the information he has provided. Perhaps he would go further and do a couple of things. Firstly, I would appreciate it if he could make the document available to the chamber. Secondly, I seek from him some figures on the value of contracts over the $5 million threshold, on how many such contracts are entered into both by government as a whole and specifically by the three departments he has named.

Mr GAVIN JENNINGS (Minister for Aged Care) — There are two parts to my answer. Firstly, whilst I do not retract one iota from conveying the information contained in the piece of advice that I have relied on at the table, the information is probably not in the most friendly form to convey to him, so I will not be passing it over at this point in time. Secondly, on the issue of the publication of information on contracts worth more than $5 million, I am advised that the best place to find information about current contracts on any day is through the web site of the Victorian Government Purchasing Board or through the Department of Infrastructure and VicRoads web sites. Those sites contain the contractual arrangements Mr Davis seeks.

Hon. D. McL. DAVIS (East Yarra) — I do not think it is good enough to treat the chamber in that way. I appreciate that he may not wish to provide the information to the chamber when it is making this decision, but the truth of the matter is that I am sure those figures are at his fingertips; they are not available just at this second, while the bill is going through the chamber. I find it disappointing that the minister has not been prepared to put these in the public arena in a tabulated way.

I am also disappointed that he is not prepared to give the value of such contracts. The minister has relied on a set of figures. I have been in this chamber perhaps a bit longer than he has, and a principle that has operated here is that documents members quote from are generally made available to the chamber as a courtesy. Not only is it discourteous for the minister not to make the document available, it also weakens the government's case that he is prepared to quote from a sheet containing a list of figures but is not prepared to make it available for the chamber. My concerns about this bill have been increased by the minister's obstruction and failure to provide those details to the chamber. You could only conclude that the government is in some way concerned about releasing those figures in a tabulated form.

Mr GAVIN JENNINGS (Minister for Aged Care) — I convey to the chamber that I stand by the evidence I have put on the public record in the committee stage of this bill. I will not be churlish about the amount of time I might have spent at the table in this chamber compared to Mr Davis, but I am well versed in the practices of this chamber about the transmission of information and the sharing of it.

Hon. P. R. HALL (Gippsland) — I am still trying to understand what this clause actually means, so I would be grateful if the minister could help me understand why it was deemed necessary to put in place a $5 million cap and what the logic was behind choosing that amount as the cap. I ask the question simply because a number of small-scale contractors would work on a project, whether it was a $4 million or $6 million project. I am concerned that the cap and the new provisions in this clause will take away from those subcontractors any options for resolving a dispute or varying a contract. That is the issue I am trying to explore. As I understand it, putting on a cap of $5 million takes away the option for a subcontractor to resolve a variation dispute if the project is more than a $6 million project. I seek some understanding of the logic of putting on a $5 million cap and whether my understanding of this clause is correct.

Mr GAVIN JENNINGS (Minister for Aged Care) — The most significant answer I can give Mr Hall is that this measure does not inhibit the capacity of a subcontractor to have those disputes resolved. It absolutely does not. Indeed the intent of the amendment is not to diminish the rights and entitlements of people to resolve those matters through this mechanism. We are making a realistic assessment about the nature of claims and the volume of work, determining a reasonable limit on the size of a contract and providing that matters can be resolved through a dispute resolution process as distinct from a litigious or court process.

It was a matter based upon experience within the sector about what the reasonable limit should be. In fact as I have already indicated to the committee, the vast majority of capital contracts that are entered into within the state of Victoria fall within the $5 million limit as indeed the representative sample of the government agencies that I refer to — —

Hon. D. McL. Davis — You will not tell us how many fall out and what the value of them is?

Mr GAVIN JENNINGS — Mr Davis, who continues to want to bait me on this question, ignores the fact that by indicating that over 90 per cent of projects are actually each under $5 million absolutely means that somewhat less than 10 per cent are over $5 million. The vast majority of contracts are covered by what is a dispute resolution process, so it is not a matter of saying that any contract has not got remedies and recourse, it depends on which course they take.

That is why I can categorically say, in response to Mr Hall's question, that we are not limiting the rights of subcontractors; we are actually trying to streamline , clarify and scope the process by which remedies can be found in relation to these matters in a quick fashion and to the satisfaction of subcontractors particularly.

More complex and larger matters in relation to volume and quantum of dollars in dispute and in relation to the complexities of contractual arrangements would be tested either through those contracts or through the courts. That is the motivation of the government in setting the $5 million limit. As I indicated to the committee, it is based upon a reasonable assessment about the scale of contractual arrangements that are entered into so that the vast majority can be handled through this process.

Hon. P. R. HALL (Gippsland) — As a final clarification, am I right then in assuming that if there is a $6 million contract and a subcontractor does $600 000 worth of work on a particular project, they are then deemed to be of such a size that they could quite reasonably be required to take any variation disputes to court rather than have a non-judicial disputation process?

Mr GAVIN JENNINGS (Minister for Aged Care) — In answer to Mr Hall's case study, the $600 000 nature of the contract entered into between a subcontractor and the principal contractor, it is because $600 000 is less than $5 million that the matter can be processed through this dispute resolution process. Any matters which are an agreed set of variations can be dealt with by this process by agreement.

Indeed the of the concern that the majority of subcontractors will not have access to this mechanism is not well founded. It is perhaps understandable in terms of bedding this down so that people understand where they fit within the cap arrangements and where they fit within the nature of what are agreed variations in dispute, or are disputed variations, which require some interpretation and bedding down. We are confident that the vast majority of subcontractors will be able to seek remedy through this process.

Hon. P. R. HALL (Gippsland) — I think It has been clarified because now I understand that the $5 million cap applies to the subcontract value of work, not the total value of the project.

Mr GAVIN JENNINGS (Minister for Aged Care) — Yes, exactly. There is a difference, a distinction, between the value of the contract entered into by the parties and the total quantum of the project.

Hon. D. McL. DAVIS (East Yarra) — I will take Mr Hall's case study a little further. My understanding is that with a $6 million contract the lead contractor or the main builder would not be able to avail itself of the security of payment arrangements under the clause as it stands, and that the subcontractors would where there was agreement about those matters of variation but not where there was no agreement?

Mr GAVIN JENNINGS (Minister for Aged Care) — Yes.

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

Ayes, 21

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

Noes, 17

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

Amendment negatived.

Clause agreed to; clauses 12 to 43 agreed to.

Reported to house without amendment.

Report adopted.

Third reading

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

That the bill be now read a third time.

In so doing, I thank all members for their contribution to the debate.

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

Bells rung.

Members having assembled in chamber:

The PRESIDENT — Order! In order that I may ascertain whether the required absolute majority has been obtained I ask members who are in favour of the question to stand.

Required number of members having risen:

Motion agreed to by absolute majority.

Read third time.

Remaining stages

Passed remaining stages.

EVIDENCE (DOCUMENT UNAVAILABILITY) BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. J. M. MADDEN (Minister for Sport and Recreation).

ACCIDENT COMPENSATION AND OTHER LEGISLATION (AMENDMENT) BILL

Second reading

Ordered that second-reading speech be incorporated on motion of Mr LENDERS (Minister for WorkCover and the TAC).

Mr LENDERS (Minister for WorkCover and the TAC) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

Workplace safety and its regulation have gone through tremendous change in the last five years, and all Victorians are the better for it.

Most importantly we have seen significant and sustained decreases in the rate of workplace deaths and injuries during that period, with 2005 being the safest year in a generation.

Last year Victoria recorded the lowest number of workplace fatalities since records began, as well as the largest reduction in the number of injury claims since 1997–98.

Workers injured at work not only have been restored the right to seek common-law damages for serious injuries; they now access a much more responsive range of benefits than they had before.

It has not only been workers and their families that have benefited from the turnaround in the VWA scheme. Victorian businesses have been able to maintain their competitive edge with this government keeping downward pressure on insurance costs, taking average premium rates to historic lows.

A good measure of this success is down to the sound financial management and administration of the scheme by the VWA and its board of management.

Through their hard work and collaboration with employers, workers and legal groups, the VWA has been lifted out of the red and into the black, making Victoria the envy of all other states in this country.

It is in stark contrast to 1999–2000 when the VWA faced $1 billion in unfunded liabilities, without enough money to cover entitlements for injured workers in the long term.

While there is a lot more work to do to consolidate the recent gains we are also aware of growing community expectations about how people injured at work can be best supported.

The scheme's sound position has provided scope for the government to review current benefits to identify opportunities for change so that they remain responsive to injured workers and their families when they need it most. The result is a package of improved benefits which form the central focus of this bill.

The bill will:

increase the level of weekly benefits for injured workers who initially return to work part time, from 60 per cent to 75 per cent of their pre-injury salary;

provide quicker access to impairment benefits for seriously injured workers;

provide injured workers with up to an additional six months of benefits beyond the present 104 weeks to 130 weeks;

increase death benefits to affected families by 18 per cent to a total of $250 000 and include overtime and shift allowances in weekly pensions for surviving family members;

provide counselling services to families of severely injured workers.

It is a package that delivers on all fronts. It tackles some of the systemic issues that can hamper a worker rejoining employment and community life, or see a family struggle with the legacy of a very serious workplace injury or death. It provides improved benefits to those workers already in the system and those unfortunate enough to be injured in the future.

For those injured workers who retain a capacity to work, the added incentives to get back to part-time work will help preserve the key relationships with the workplace.

History shows that this is key to sustaining a worker's own quality of life and that of their family.

Currently those long-term injured workers are given only four weeks notice of an intention to cease their weekly benefits, which often does not provide scope for renewed efforts to retrain and support the worker returning to work.

The move to extend weekly benefits beyond 104 weeks to 130 weeks, with a tripling in the notice period of termination to 90 days will help what are some of our most vulnerable Victorians. They deserve our support and encouragement to reintegrate themselves back into suitable employment and community life.

Everyone has a role to play in improving return-to-work options for injured workers. Finding the best way to support workplace partners and find new opportunities for injured workers is a challenge that every scheme faces.

To meet this challenge the benefits package will be complemented by a new $10 million fund to support partnership programs involving employer and worker organisations that will focus on improving successful and sustainable return-to-work opportunities for injured workers.

Those workers suffering more serious injuries will be better catered for. Currently, many of those who seek damages at common law can face lengthy delays before receiving any payout. This can cause financial and emotional strain as the worker and their family come to terms with the devastating effects of a serious injury. Most of the delays are unnecessary and costly, caused by some of the current processes used to determine the eligibility of injured workers to seek damages.

This bill will provide the opportunity for seriously injured workers to access impairment benefits prior to them seeking damages from the courts. The new arrangements still ensure that only those most seriously injured workers continue to have access to common law but allow them access to much-needed funds soon after their injury. If the worker subsequently obtains common-law damages, the amount paid in impairment benefits would be deducted from any common-law damages.

This bill does not ignore those who lose a loved one at the workplace.

Fewer workers died at work last year than in any other in the last generation, highlighting how VWA is helping Victorians take workplace safety to a new level.

Despite this, statistics mean little to those families and communities that have experienced the grief and pain following a very serious injury or the death of one of their own.

While the increased lump-sum payments for dependants of deceased workers may ease at least some of the pain felt by families, improvements in the way that VWA manages these cases may well help even more. Families affected by a workplace death will have more and better help from the VWA in dealing with the Coroners Court and other agencies.

The package provides greater dignity and support for those who have suffered as a result of their employment and helps those families who lose the most important asset of all, a loved one.

The bill also provides a range of changes which protect the viability of the scheme, resolve anomalies or introduce new claims management methods to ensure injured workers are not disadvantaged.

A technical change involves an amendment to the Workers Compensation Act 1958 to adopt remaining operative provisions of the Workers Compensation Regulations 1995. This will ensure that workers who make claims for injuries sustained prior to 1985 for long onset diseases, such as asbestosis and silicosis, are not disadvantaged.

This bill is the culmination of five years of reform; five years of working together with the Victorian community to take safety to a new level.

We now have a responsive, proactive health and safety regulator that embraces consultation as the most effective tool in reducing the number of Victorian workers injured at work.

We also have a workers compensation scheme that delivers to those unfortunate enough to be injured at work fair and comprehensive benefits to help them back to work or maintain a high quality of life.

I commend this bill to the house.

Debate adjourned on motion of Hon. B. N. ATKINSON (Koonung).

Debate adjourned until next day.

LAND (FURTHER MISCELLANEOUS) BILL

Second reading

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

Mr LENDERS (Minister for Finance) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

The purpose of this bill is to change the land status of three Crown land reserves located in Belmont, Moreland South and Bendigo. These changes are required to facilitate the construction of improved road and recreational facilities.

South Barwon Recreation Reserve, Belmont

The bill will revoke part of a permanent Crown land reservation in Belmont that applies to the South Barwon Recreation Reserve.

The revocation is required to enable the construction of roadworks in Breakwater Road, Belmont. The roadworks are part of a $6.4 million project to upgrade Breakwater Road. Breakwater Road forms a major east-west connection across the Barwon River. The roadworks will resolve what has been a major impediment to the distribution of commercial and industrial road transport in the Geelong area. In simple terms this proposal allows for a roundabout with an extra lane resulting in a two-lane roundabout. The current single-lane roundabout at the intersection struggles to cope with morning and afternoon peak time traffic.

The road improvements are the outcome of a commitment made in a joint media release by the Minister for Transport and the member for South Barwon, dated 19 July 2005, that $6.4 million would be allocated in the 2005–06 budget to improve the Barwon Heads Road and the Breakwater Road at Belmont.

The City of Greater Geelong is delegated manager of the reserve and strongly supports this proposal, as does the wider community.

McDonald Recreation Reserve, Moreland South

Similarly the bill will revoke part of a permanent Crown land reservation in Moreland South that applies to the McDonald Recreation Reserve. The bill will also revoke part of a restricted Crown grant, dated 4 May 1888, granted to the president, councillors and ratepayers of the Shire of Coburg.

The partial revocation of the permanent reserve and restricted Crown grant will allow 1018 square metres of the western margins of the land to be proclaimed as a road. This will enable the City of Moreland to widen Drummond Street to facilitate its use as an outlet for the newly constructed Pentridge Boulevard into Bell Street. It will also replace Urquhart Street as the bypass road to Bell Street which will create a more direct and safer bypass road. Drivers will no longer have to use the narrow Urquhart Street which passes a school, council offices and other community facilities to get to Bell Street from Sydney Road.

The Bracks government is pleased to introduce legislation that improves road safety and reduces congestion.

Sandhurst Water Supply Reserve, Bendigo

The bill also facilitates the completion of a major aquatic and passive recreation facility for the people of Bendigo to be known as Crusoe Reservoir and No. 7 Park. This park which is located 10 kilometres from Bendigo will further enhance the city of Bendigo's growing reputation as 'the city in the forest'.

The site of the park includes part of the Sandhurst Water Supply Reserve that is no longer required by Coliban Water for water supply purposes and will become available for recreation that is compatible with the conservation of surrounding bushland and heritage structures. The Crusoe Reservoir and No. 7 Park is proposed to be managed by the City of Greater Bendigo as a committee of management. The city of Bendigo has prepared a draft management plan for the park which has been made available for public comment.

To facilitate this change in land use, the bill revokes part of the permanent reservation that relates to Sandhurst Water Supply Reserve and also revokes the relevant portion of the Crown grant, granted to the Board of Land and Works, dated 4 December 1893.

The City of Greater Bendigo has committed between $4 and $5 million to develop the park, while Coliban Water has already spent $3 million upgrading the Crusoe and No. 7 reservoirs to allow for their decommissioning as water supply facilities. Coliban Water will retain responsibility for water supply structures which are still operational.

The Crusoe Reservoir constructed in 1873 and the No. 7 Reservoir constructed in 1859 form part of the Coliban water supply system which is listed on the heritage register as a historically important engineering system designed to bring water to the city of Bendigo.

The project is eagerly anticipated by the Bendigo community not only as a recreational facility, but also because of the proposed environmental works that will reintroduce endemic flora and fauna. New boardwalks and walking trails are proposed to be constructed throughout the reserve giving visitors an opportunity to view the flora and fauna without impacting on the environment. The project is part of an integrated parkland system throughout Bendigo that will be linked by networks of walking and cycle paths.

I commend the bill to the house.

Debate adjourned for Hon. D. McL. DAVIS (East Yarra) on motion of Hon. E. G. Stoney.

Debate adjourned until next day.

ELECTORAL AND PARLIAMENTARY COMMITTEES LEGISLATION (AMENDMENT) BILL

Second reading

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

Mr LENDERS (Minister for Finance) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

The main purpose of this bill is to implement a number of reforms relating to electronic democracy.

First, it amends the Electoral Act 2002 and the Constitution (Parliamentary Reform) Act 2003 to provide for a trial of electronic voting and make a number of miscellaneous amendments relating to electoral matters.

Secondly, it amends the Parliamentary Committees Act 2003 to —

> allow parliamentary committees to take evidence by electronic means and to allow committee members to participate in meetings by audio or audio video link;
>
> make technical amendments in respect of the tabling provisions for committee reports; and
>
> give the Scrutiny of Acts and Regulations Committee (SARC) the ability to consider and report on an act that has already been passed if SARC was unable to consider it as a bill.

I now turn to each of the amendments to these principal acts in more detail.

Amendments to the Electoral Act 2002

In its report *Victorian Electronic Democracy* SARC recommended that the Victorian Electoral Commission should develop and implement a system of electronic voting machines for local and general elections in Victoria.

SARC noted that electronic voting facilities are in use around the world, including in the Australian Capital Territory. SARC heard evidence on a range of security issues associated with electronic voting and concluded that electronic voting machines, appropriately designed and configured, can provide a secure way to vote.

Electronic voting is considered to be a valuable improvement to current voting practices, because it can provide secret voting to voters who may not have access to it otherwise. SARC noted that improving access by voters to a secret vote is a recognition of a basic human right.

It is proposed to trial electronic voting facilities at six 'super voting centres' at the next state election. Voters with vision impairment who could not otherwise cast a vote without assistance and who want to vote using an electronic voting kiosk will be entitled to use the electronic voting facilities.

Voters within the category will have their name marked off the roll as is the current practice. They will then be issued with a smart card instead of a ballot paper. The voter will insert the card in the voting kiosk and the card will tell the kiosk which ballot papers to display. The voting kiosk will give the voter with vision impairment a range of options through a set of headphones as well as a touch screen. Voters will be able to navigate, make their selections and cast their vote using the touch screen or through a numeric keypad.

The provisions of the Electoral Act will apply to electronic voting except to the extent that they require variation to accommodate electronic voting. All of the variations are contained in part 6A that will be inserted in the act by the bill. The provisions contained in part 6A make it clear that the new part does not create an entitlement to vote by electronic voting.

The commission will put in place security arrangements to ensure that electronic voting is secure and safe. It will be an offence to, without reasonable excuse, destroy or interfere with any computer program, data file or electronic device which is used, or intended to be used, for or in connection with electronic voting. This offence will attract a penalty of up to five years imprisonment or 600 penalty units.

The possible future expansion of electronic voting for eligible vision-impaired voters to other centres will depend on the outcome of the trial. The commission already reports to each house of Parliament on the administration of an election within 12 months of each election. As part of this report the commission will assess the outcome of the trial of electronic voting from its perspective. It is also expected that the Electoral Matters Committee of Parliament will also consider and report to Parliament on the trial of electronic voting as part of its functions.

In addition to establishing a trial of electronic voting the bill will amend a number of offence provisions in the Electoral Act to make it clear on the face of the legislation that they are indictable offences. These offences already carry penalties of 600 penalty units or five years imprisonment. It was assumed that because of the penalty of five years imprisonment these offences were indictable offences. However, due to the manner that the penalty is set out in legislation, the offences must be regarded as summary offences. The amendments will restore the position that was originally intended.

Amendments to the Constitution (Parliamentary Reform) Act 2003

The bill will amend the Constitution (Parliamentary Reform) Act to —

> provide for the timing of by-elections; and
>
> make provision for a form of ballot paper to be used for Legislative Council elections when there are 20 or more groups of candidates.

Amendments to the Parliamentary Committees Act 2003

The bill will incorporate recommendations that SARC made in its Report on Victorian Electronic Democracy in relation to parliamentary committees. The bill will amend the Parliamentary Committees Act to allow parliamentary committees to take evidence by electronic means. If a committee decides to accept evidence by electronic means,

the committee will have the ability to decide what value to give to that evidence.

The bill will also amend the act to allow committee members to participate in meetings by audio or audio-video link. Committee members may participate in meetings in this manner where the quality of the link is such that members of the committee attending physically can verify the identity of the absent member and the participation of one member remotely does not prevent the participation of another via a similar means. The committee must resolve unanimously to permit the use of these technologies for committee business. A quorum would still be required to be constituted only from those members physically attending the meeting. This reform recognises that the use of technology can reduce the burden of long-distance travel for those witnesses and committee members who live in rural and regional areas while placing some controls around its use to ensure the integrity of the work of the committees.

In addition to implementing the recommendations of SARC, the bill also amends the Parliamentary Committees Act following discussions with the clerks of Parliament to facilitate the easier tabling of committee reports. Accordingly, the bill provides for the tabling of a report of a joint investigatory committee once adopted by a committee to be laid before each house of the Parliament within 10 sitting days, or, if a house is not actually sitting within 21 days of the adoption of the report, a committee can unanimously resolve to give the report to the Clerk of each house. This approach then provides a clear process for tabling.

Finally, the bill will give SARC the ability to consider and report on an act that has already been passed if SARC was unable to consider it as a bill.

One of the core findings of SARC in its report on electronic democracy was that the community, including elected representatives, needs to develop the capacity to learn and experiment with the range of opportunities and applications that new technologies bring to the democratic process. SARC observed that new information and communications technologies have much to offer the democratic process if carefully implemented. This bill has embraced those findings and will continue the work this government has undertaken towards improving the access to democracy by all Victorians, in this year where we celebrate the 150th anniversary of the official opening of Victoria's Parliament House.

I commend the bill to the house.

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

Debate adjourned until next day.

HEALTH LEGISLATION (INFERTILITY TREATMENT AND MEDICAL TREATMENT) BILL

Second reading

Ordered that second-reading speech be incorporated on motion of Mr GAVIN JENNINGS (Minister for Aged Care).

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

That the bill be now read a second time.

Incorporated speech as follows:

Victoria has long been recognised for its leadership in the statutory regulation of assisted reproductive technology in Australia for over 22 years, with the introduction of the Infertility (Medical Procedures) Act in 1984. In 1995 this act was replaced with the current Infertility Treatment Act, which was introduced by this Parliament with bipartisan support. This act built on the 1984 legislation and set out guiding principles, which specified that the welfare and interests of a person born of a treatment procedure are paramount. The 1995 amendment also established the Infertility Treatment Authority to regulate and license the providers of assisted reproductive treatments.

The first object of this bill is to amend the Infertility Treatment Act 1995 to enable infertility treatment clinics to be licensed in their own right to perform assisted reproductive technology procedures, rather than restricting licensing to hospitals and day procedure centres. This will improve the operation of the licensing scheme and the provision of these services.

At present section 93 of the act permits the Infertility Treatment Authority to issue a licence only to a public hospital, a denominational hospital, a private hospital or a day procedure centre. There is no capacity to issue a licence for a stand-alone organisation which is a legal entity, such as, for example, Melbourne IVF or Monash IVF. This has meant that these latter agencies have been required to rely on a licence issued to the organisation where they are located — e.g., a hospital — even though they are quite separate entities.

The current licensing arrangements are not ideal for the governance of the licence. It means that the licensee may not be the clinic providing treatment, and hence there is a lack of clarity between the licensee and the clinic over legal responsibilities and obligations.

This amendment expands the category of entities that can apply for and be granted a licence to include proprietors of clinics that provide infertility treatment services and are either based within a hospital or day procedure centre or access the clinical services of a hospital or day procedure centre. This person could vary depending on the business structure of the clinic but currently would most commonly be a body corporate.

There is no change proposed to the provisions regarding the imposition of conditions on a licence, the nature of treatment procedures, the approval of practitioners or the nature of the licensed centres at which treatment can be conducted.

There is widespread support for the alteration of the assisted reproductive technology licensing process from both members of the authority and the industry.

This bill also amends the Medical Treatment Act 1988.

The Medical Treatment Act reflects the strong community and professional consensus that the law should assist individuals, their families, their friends and medical staff to

make informed decisions about whether medical treatment should be continued towards the end of a patient's life.

The amendments to the Medical Treatment Act make two minor amendments to the forms contained in schedule 3 of the Medical Treatment Act. Schedule 3 prescribes the form of refusal-of-treatment certificates to be given by agents or guardians of incompetent persons. It is important that these forms provide the appropriate guidance to people who need to sign them.

The first amendment clarifies that only those guardians appointed by the Victorian Civil and Administrative Tribunal with powers to make medical treatment decisions may lawfully refuse medical treatment on behalf of an incompetent person. The current wording of the schedule refers to an order of the Victorian Civil and Administrative Tribunal under the Guardianship and Administration Act, but it does not explicitly refer to the order being a guardianship order that specifically relates to medical treatment.

The second amendment to the schedule relates to a note for registered medical practitioners. The note has been redrafted to clarify that it applies to the registered medical practitioner who is asked to verify the refusal-of-treatment certificate.

I commend the bill to the house.

Debate adjourned for Hon. D. McL. DAVIS (East Yarra) on motion of Hon. E. G. Stoney.

Debate adjourned until next day.

TRANSPORT LEGISLATION (FURTHER AMENDMENT) BILL

Second reading

Debate resumed from earlier this day; motion of Ms BROAD (Minister for Local Government).

Hon. R. H. BOWDEN (South Eastern) — I rise to speak on the Transport Legislation (Further Amendment) Bill. So as to calm the nerves of some of my colleagues in the chamber, no, I will not be speaking for a full hour. Members can relax.

The legislation for the regulation of our extensive public transport arrangements is very important because attached to the need for that legislation is the requirement that the safety of and service to the travelling public be well and truly taken care of.

The opposition does not oppose the bill. That does not mean that it is perfect, it just means we are not opposing it. There are several features about the bill which I would like to expand upon. I will begin by saying there are several features of the bill which honourable members might like to be aware of. The first relates to the accreditation of drivers who convey members of the public, and that covers taxidrivers, drivers of school buses and hire cars, and also drivers who operate commercial buses and vehicles catering for the travelling public. One of the objectives of the bill is to enhance the accreditation process for those who have this important responsibility and to instil in them a culture of care and safety.

An important philosophical feature of this bill is a public care objective — that is, that members of the public are entitled to receive comfort, security and convenience from the drivers of the vehicles I have previously mentioned. The public care objective is to instil in the operators and drivers of these vehicles an important ideal of responsibility towards the protection and proper care of vulnerable people in our society, including young children and the elderly, who may need special consideration. The accreditation process will ensure there is a much tighter process and regime in place so that the public can be assured that within a relatively short period of time the chances of inappropriate persons being in charge of these vehicles will be much reduced.

A second feature of the bill is that it provides for an enhanced accreditation process for public transport companies that operate their own services and employ their own authorised officers. Some serious doubts about the acceptability of the performance and behaviour of such authorised officers have been brought to the public's notice in relation to policing regulations that apply to public transport, be it train or tram transport. There is an expectation that the proposed accreditation process for authorised officers of public transport companies will improve their management. That is a good idea, and it is supported.

The bill also provides for a public transport education program for certain disadvantaged offenders. It is a sad fact that there are occasions when people who use the public transport network have a medical difficulty — they may have a mental illness — or may be affected by some other disability. As a community we would like those individuals to receive a sympathetic approach and not be unnecessarily penalised for offences. After a lot of thought this bill was drafted with a feature that gives a court the option to refer such individuals within a specific category to an education program. A course will be made available to people in this category to provide them with an understanding of the need to provide payment for tickets or to improve their behaviour. It is a positive ideal and a positive approach. I think it is a good thing that the courts will have that option and that a humane and understanding approach is being taken to the administration of regulations in this matter. I am supportive of that.

The bill also proposes that VicTrack will have access to property for the installation and maintenance of essential communications and service equipment. A similar situation exists with the electrical distribution network regime, so it is not unknown, and it is a supportable proposal.

The bill also proposes that information provided to Victoria Police in relation to people who have committed offences under the appropriate regulations on the public transport network will be referred to VicPol and the sheriff's office for the confidential recording and registration of those details. That will ensure that an accurate and up-to-date history is kept of the difficulties that specific individuals may have encountered in complying with their responsibilities on the public transport network.

Part 4 of the bill provides for amendments to the Rail Safety Act and related legislation. Clauses 39 to 61 of the bill cover those amendments. The bill talks a lot about safety and safety officers and incorporates many aspects of the operations of safety officers into the legislation. I suggest to honourable members that while it is a good thing to be focused on the need for safety and the need to support our safety professionals in the public transport area, there also needs to be a lot more focus on infrastructure. Infrastructure in this state is poor, and investment in infrastructure is even worse.

I suggest that the large number of level crossings in Victoria is completely unacceptable. The incidence of level-crossing fatalities and accidents in Victoria is totally unacceptable. If you were to compare Victoria's history of level-crossing fatalities and accidents with those of our sister states, you would see that we do not look very good. It is an acceptable and fine ideal to have a human focus on safety, but unless that is backed up with investment in infrastructure, there is something lacking in that total commitment. I refer in particular to the lack of signalling, the lack of services and, in particular, the lack of flexibility in our system.

We have old rail equipment in Victoria. Part of my electorate is the Mornington Peninsula, and down at Somerville, where I live, we have a 51-year-old locomotive pulling 50-year-old carriages on a daily basis on a public transport system that is supposed to be modern. I do not think it is. It has had its safety problems, and it has had its safety issues. I can tell you that the town of Somerville is not happy — and as their representative I am not happy either — with the very poor equipment that is provided on the train service between Frankston and Stony Point, on which Somerville is but one station. I also think there is underinvestment in track maintenance and rolling stock. This government is very strong on the philosophical commitment to safety, and that is excellent and totally supportable, but when it comes to putting cash into delivering substantial and much-needed infrastructure to augment the philosophy of safety, this present government is severely wanting.

Returning to the bill, I suggest that the taxidrivers, the school bus drivers, the hire-car drivers and the operators of the public bus system need to be aware that the community, through the accreditation process proposed by this bill, is raising standards. It is not acceptable to accredit people for these important positions if they are unsuitable. There is an automatic exclusion for persons who in the past have committed major crimes of an indictable nature, such as murder, rape and other appalling crimes against the community. Those persons will not be able to be accredited. If a person makes an application under this legislation and feels aggrieved, there is a process for reconsideration through the Victorian Civil and Administrative Tribunal — the appeal mechanism is there to give balance and provide procedural fairness.

One criticism has been pointed out, and I think it is a very fair one. Interstate drivers can, on a commercial basis, come into Victoria and do not need Victorian accreditation. For instance, if a commercial operator is coming in from an adjacent state and carrying a passenger, under this arrangement that driver does not need accreditation in Victoria. I think that is a weakness. It was mentioned by my colleagues in the other place, and I would like to see further consideration of it so that the rules that apply to Victorian citizens apply to corresponding service providers and drivers from other areas.

The public education system the courts will be able to provide as an option is a good thing. I think it shows understanding and is a humane thing in several categories. It is supportable because it is well intentioned. However, more thought needs to be given to the content of the course and the details of the presentation of the course. It could very well be that the court will direct a person to attend this course and, while the course itself is a good idea and the backing of it is very commendable, there could be some hardship flowing from it. For instance, if a person is directed by a court in a rural or regional area and the course is run in the metropolitan area and that person is required to attend, there could be some practical difficulties in fairly having that person attend, despite the laudable reasons the course is being conducted.

I would like to speak at length about the deficiencies in the taxi industry, but I will not.

Honourable members interjecting.

Hon. R. H. BOWDEN — I could see members were getting nervous there. However, I would like to briefly say that the taxi industry could do with some assistance. It is struggling to be economically viable, and we think there is a need for further thought on that.

With those thoughts and in conclusion, we are not opposing the bill. We think aspects of the bill are quite good. In many ways it is an omnibus bill with transport connotations. On that basis, I will conclude my presentation.

Hon. B. W. BISHOP (North Western) — I rise on behalf of The Nationals to speak on the Transport Legislation (Further Amendment) Bill. The Nationals' position on this bill is to not oppose it. We have consulted widely. While I talk about the consultation process I would like to inform the house of The Nationals' appreciation of the depth of the briefings we have received from the departmental officers on this and other bills. On this bill in particular it was excellent, and we appreciate those briefings.

The bill introduces three major areas of change. The first talks about a new accreditation scheme which will be directed towards drivers of commercial passenger vehicles — buses, school buses, private buses, taxis and hire cars. When I first read the briefing on the bill I struggled with the word 'new'. However, as we went through the briefing it became quite clear that the current provisions were introduced in the 1983 legislation and have been amended and reset a number of times since. Probably the worst result we could have gotten was to leave them where they were as they would have been very difficult to follow and could perhaps have created confusion. I suspect we would all agree that this bill is much more robust than the previous legislation. I think that is necessary because many times through this bill and the rules and regulations it will put in place we are dealing with our most vulnerable people.

The bill talks about three levels of offences. Category 1 covers quite bad offences like sexual assaults on children or vulnerable people, terrorist activities or serious violence. It is my understanding that if you are caught up in any of those offences, you will be refused accreditation. Category 2 picks up drug offences, violence, fraud and sexual offences with adults. As I understand it, accreditation would be refused unless the person could convince the director that accreditation would be appropriate, particularly regarding the public care objective. Category 3 covers all other criminal offences, with similar provisions, as I understand it, to category 2.

The translation of all this is a strong weighting towards the public care objective throughout this bill. We think that is a good thing. However, when we think about that we think of the thousands of buses and other public transport operations throughout Victoria, whatever they might be. Might I say that we in The Nationals have the highest regard for all those people, particularly the school buses for the country kids of all ages. I would like to compliment the drivers of those school bus runs. They are not only drivers, they have to keep the kids in order — I travelled on school buses myself many years ago — and generally take care of the passengers in their care. I would like to put in a good word for the school bus coordinators at the schools. I think they do a fantastic job. They are the human interface between the bus drivers, the school and often the parents. They face lots of challenges but they handle them particularly well, and I think they deserve a medal along the way, as do school bus drivers. Many of us travel on the coaches that service the public transport system. I use them and I think those drivers are friendly and considerate. I have noticed that they look after their passengers.

In relation to taxis, page 4 of the explanatory memorandum talks about enabling the director to require an applicant for accreditation to demonstrate a number of matters including fitness to drive, health, knowledge of streets and locations, knowledge and use of the English language and knowledge and skills in customer service. I think that is something we could look at in relation to our taxi industry. As I understand it, in London cab drivers go through quite a solid course — it is my understanding it is over a year — so they know exactly where to go and how to handle their passengers. I think a revamp of that situation to give the director a bit of horsepower would not go astray.

Someone said earlier that when you get into a taxi you do not have a second thought for your safety. In many areas in the country you are pretty assured of where you are going and you probably even know the driver. However, it is a bit different in the city. I certainly do not know all the streets of Melbourne, so you get in there and you trust the driver explicitly to get you to wherever you want to go as quickly and efficiently as possible, and also safely.

The taxi industry and those in it need to have a strong line of credibility. I believe the taxi industry works hard. I do not believe there are a lot of dollars for the people who work in the industry but they must have a good public image to ensure their earnings are as good as they can make them. When visitors to our country

come out of the airport the first impression they get is of a Skybus or a cab or a hire car. If they are well looked after, everyone is happy. If you have a bad run, a bad start, you are likely not to be as positive an ambassador as if you get a good run.

I will give a plug here for the hire cars. I think they are great. The cars are well maintained and the drivers are well organised, punctual, reliable and very knowledgeable. I think they provide a first-class service in public transport.

We have looked at some of the other amendments previously. They tidy up the interstate arrangements so it is good that they are done. I also note that we have a safety net under people who apply for accreditation. If for some reason a driver is not fairly treated — it might be misinformation, it might be any reason at all — they have recourse through the Victorian Civil and Administrative Tribunal if they are refused or have their accreditation cancelled. I think that is fair enough too. When we had the briefing I was concerned that it might start off a program so that drivers who had been in the system a fair while might have to be reaccredited straight away, but I am told that will not happen. They will not have to apply. The accreditation process rolls on as normal.

I have a daughter-in-law who has a school bus run and she has been through that tough accreditation program, and I think it is a good idea. She has had tremendous support from Bus Association Victoria, particularly Keith Foote, who has had a huge amount of experience with that type of bus travel. She had two or three meetings with the bus association and it offered her very good advice over a wide range of issues. Peter Walsh, the member for Swan Hill in another place, and I attended the association's annual conference not long ago. It was good to see such a huge membership there in support. If I remember correctly, there were 1400 people there on the days of the conference. My congratulations to Bus Association Victoria and particularly to Wayne Mountjoy, its president; John Stanley, the executive director; and Keith Foote, the deputy director, who has been so helpful, particularly with good advice to people involved in country bus runs.

The second part of the bill strengthens the existing scheme for the accreditation of public transport companies and associations who engage or employ authorised officers to carry out the law enforcement of public transport. There are a number of issues that are tidied up there, and we have no real problem with those. We also note that there is a strong monitoring content through that whole process. We think that is quite a reasonable idea. It might be a tough job being an authorised officer in some situations but it needs some regulatory control. If you get an over-officious authorised officer it certainly would create a 'them and us' situation which we do not need in our public transport. We look forward to the operational outcomes of this particular area as the bill moves into the real world.

The third major part of the bill is a difficult one. How do we manage those who continue to offend? There are two major ways. One is to provide the new sentencing option for repeat offenders of public transport that involves participation in public transport education program. They have been designed to deal with people who have genuine difficulty understanding their obligations in relation to public transport. It might be that they have difficulty with the language; it might be that they have other difficulties. I think it is fair to say that it is a pity we can cannot go a bit wider, because infrequent visitors to our city and infrequent users — be they tourists or older people — get a bit of a blank look when they try to wrestle with the machines and at times they give up. Certainly it would be a far simpler process if we all had more education. It would not be a bad idea. I am not sure how far we could go with that, but from our perspective it would be worth trying.

To pick up another issue I must go to page 59 of the bill which talks about this particular amendment. New section 62A(2) states:

> The Safety Director must, as soon as possible and before deciding whether or not to grant the application, consult with the relevant corresponding Rail Safety Regulator, or Regulators, in relation to the application with a view to the outcome of the application being consistent with the outcome of applications made in the other jurisdiction or jurisdictions.

Of course that is the Rail Safety Bill that we had in this house not so long ago. All The Nationals can say is, 'We told you so'. We told the house and told the government and we moved a reasoned amendment. I am not at liberty to quote that due to the standing orders, but the reasoned amendment was quite straightforward. It asked that the Rail Safety Bill be put to one side until the National Transport Commission draft of a rail safety bill went through and became national law. But no, what did we do in Victoria? We pressed ahead relentlessly. We would not wait a few months to have that true national approach.

We thought it was stupid at the time and now we have this ridiculous bandaid that we have to put in place to cover those issues. We have seen it before where we have rushed ahead in boating laws, and now we have different rules between the states. The chain of

responsibility is another one. We fiddle around with these model bills and we end up with different rules and regulations between the states. Again, I say The Nationals tried to reason with the government on that, but there was no way. It ploughed ahead, we missed the chance and now we have this bandaid stuff we have to stick over the top and hope we make it work from there.

We had some concerns in the bill about compulsory acquisition. I think our fears were answered when we made some more inquiries. It seemed to us that the director would have the chance and opportunity to carry out compulsory acquisition on his or her own, but apparently it is just bringing together a consolidation of powers and provisions, and the minister is still to be involved. In other words the buck stops at the minister. So if that is the case — the minister might provide an explanation of that — we are satisfied with that.

We also note the other amendment which talks about VicTrack entering property abutting rail lines to perform cabling works for the purposes of signalling as well. To do this currently the application for an easement requires long delays. The bill allows VicTrack to enter land and will provide it with the same existing rights of the utilities. It provides for VicTrack to compensate landowners for any resulting damage to the land. It seems straightforward, but as the legislation begins to operate, we urge VicTrack to use these new powers sensibly and with an understanding for other customers.

Another thing I note is that the bill has come into the house before full consultation has been had with the industry. We were advised during the briefing that the bill reflects present practice. That might be so, but there seem to be a fair number of loose ends that we or the system need to tidy up. For example, one is a list of incidents that a company must report to the director. We are a bit uncomfortable with all this, so again I will be very keen to observe the operation of and outcomes from the bill as it finds its way into the real world. The Nationals' position is not to oppose the bill, but we raise those concerns I have referred to.

Mr VINEY (Chelsea) — I am pleased to speak fairly briefly on the Transport Legislation (Further Amendment) Bill, which continues this government's progressive work in dealing with public transport matters. In particular of course, as other speakers have outlined, the bill deals with a number of issues that relate to the general theme of protecting especially vulnerable members of the community and ensuring that the government continues to put in place programs, services and legislation that deal with the effect of disadvantage in the community.

In particular there are three key areas. The first is the introduction of a new scheme for the accreditation of drivers of commercial passenger vehicles — that is, buses, taxis and hire cars, and private bus services — and the accreditation scheme will be built around a public care objective.

The second is the provision to strengthen the existing scheme for the accreditation of public transport companies and associations that engage or employ their authorised officers to carry out law enforcement functions on public transport.

The third is to provide the courts with an alternative means of dealing with people who have been using the public transport system inappropriately or incorrectly and who are offenders in the terms of the regulations for the proper use of public transport. It particularly provides the courts with alternatives for dealing with people at disadvantage and who might not be aware of their obligations as passengers; it makes sure that the courts have the opportunity of providing some education programs for these users.

There are other amendments in this omnibus bill, and I want to pick up in particular the comments of Mr Bishop in relation to the amendments to the Rail Safety Act 2006 which were passed earlier this year. As I understand it, the amendments do not relate to the fact that Victoria is leading the way in the national program. My understanding is these amendments were agreed to in February and were introduced as soon as they were ready to be applied as amendments to the Rail Safety Act 2006. The amendments are not, in fact, related to the national program and in no way does it comment upon Victoria as Mr Bishop saw it, not waiting for the national legislation to be put in place. Victoria is leading the way, Mr Bishop — —

Hon. B. W. Bishop — You can assure us that if we waited, we would not have to do it?

Mr VINEY — As I said earlier, Mr Bishop, it was agreed in February this year that we would make these amendments to the legislation as soon as they were ready. They are ready and they are now to be incorporated in the legislation at the first opportunity. It is a bit rich for you to be criticising the government for leading the nation in rail safety, for Victoria to be some 12 months ahead of the other jurisdictions. The amendments in this bill are worthy amendments and are consistent with the general policy approach of the government. I commend the bill to the house.

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 honourable members for their contributions to the debate.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

ADJOURNMENT

Mr LENDERS (Minister for Finance) — I move:

That the house do now adjourn.

Care leavers: *Forgotten Australians* report

Hon. ANDREA COOTE (Monash) — The matter I raise on the adjournment tonight is for the Minister for Community Services in the other place. It concerns an issue that was raised with me on behalf of the Care Leavers Australia Network (CLAN) by Caroline McDougall. She brings to light the issues of a number of Australians — indeed, Victorians — who might be called the forgotten Australians.

She recently was informed that the Minister for Community Services is to make an apology to care leavers on behalf of the state government at some stage this year, and I believe that apology will be made soon. Caroline McDougall says in her letter that she has studied the 2004 *Forgotten Australians* report and has written a paper on CLAN which she submitted through the *Australian Social Work Journal*. She outlined many issues and concluded that little has been done to meet the promise made by the government as a result of the 39 recommendations made in the report.

For the information of the house 'care leavers' is the name that was given to children who were brought up in care away from their families and raised as state wards or in children's homes, orphanages or other institutions or in foster care. Children were often placed in homes due to family crises including poverty, neglect, violence/abuse, death of a parent, a mental illness and family breakdown. Attitudes of the day were also a contributing factor. For example, single fathers were not considered appropriate caregivers and single mothers experienced social stigma. Children were sometimes placed in care because they were considered out of control and 'in need of training'.

It is a very comprehensive report and I am certain other members of the chamber have received copies of it. It is indeed an issue that we should be facing as a community. I ask the minister to follow through with the pledge made in 2004 to establish appropriate humane services to make amends for those crimes of the past.

Mount Buller Road: line markings

Hon. E. G. STONEY (Central Highlands) — I raise a matter for the Minister for Transport regarding the quality and placement of the line marking on the road between Mirimbah and the Mount Buller ski village. This section of road has been declared a hazardous area road by VicRoads. The road is subject to extremes of temperature, and the line markings are subject to wear from the scrubbing of tyres on corners, the temperature and snow ploughing, although perhaps not so much this year.

This issue has been brought to my attention by a bus driver who regularly carries full coach loads of people up and down the mountain. He explained to me that the centre line on that section of road is, on many corners, not in the centre of the road but towards the inside of the road, cutting those corners. He said that is how drivers tend to operate and that the line-marking person is no different. The effect of the cutting of the corners is that the inside lane is narrow. Drivers of long vehicles are thus forced to throw their front wheel over the line in order to get their back wheels around a corner and so that they do not go into the gutter and the vehicle does not go into the bank. This means that vehicles coming the other way and following the white line as a guide are confronted with the bumper bar of a large vehicle that has been forced to get over the line in order to go around the corner. That is quite a safety issue.

The bus driver explained to me that even white lines in the centre of the road are sometimes completely scrubbed out because they are not renewed at frequent enough intervals. When a line-marking contractor puts in a new line there is a bit of guesswork involved, and the natural inclination of the driver is to lean into the corner a little, which reduces the width of the inside lane. I am told that on some corners — such as one near the 23 mile pit — you can see traces of three different lines on the road at different widths from the edge. On making some inquiries, I found that line markings should be painted on roads that experience extreme conditions just before and just after winter. I do not

believe that is consistently done. Care should be taken by the contractor and VicRoads to make sure that corners are not inadvertently cut during line marking because it can cause long-term safety issues.

I ask the minister to alert VicRoads to the safety concern. It is a concern of people such as bus drivers, who have many people in their care. I also ask the minister to ensure that in the interests of public safety VicRoads requires contractors to make sure their line markings are always in the centre of the road.

Warrnambool Surf Life Saving Club: legal fees

Hon. J. A. VOGELS (Western) — I raise an issue for the Minister for Police and Emergency Services in the other place, the Honourable Tim Holding. It concerns the refusal of Life Saving Victoria to reimburse the Warrnambool Surf Life Saving Club for legal expenses incurred at a coroners inquest at Warrnambool.

In January 2005 five people were drowned in a terrible tragedy at Stingray Bay at Warrnambool. The coroner held an inquest into the circumstances of this tragedy at the Warrnambool court on Thursday, 29 June, and Friday, 30 June. The coroner has not handed down his findings so I cannot comment on the specifics of the inquest. We do know that five people from the one family were drowned and that three sisters were saved by heroic people who risked their own lives to try to rescue those in trouble. In fact the police sergeant who was in charge of the search-and-rescue operation told the inquest that the operation went extremely smoothly and that those involved were nominated for Royal Humane Society of Australasia awards for bravery. Warrnambool Surf Life Saving Club decided, I believe wisely, to be represented by legal counsel at the inquest as some of its members were involved in the rescue and the events of the day.

It is my understanding that this volunteer club is now facing a legal bill for services rendered of some thousands of dollars, which the peak organisation, Life Saving Victoria, refuses to pay because, in its words, it may set a precedent. This is incredibly disappointing for the Warrnambool Surf Life Saving Club, whose members are volunteers who spend many hours making sure they are fully qualified and trained to protect our beachgoers. By refusing to stand behind its volunteers, Life Saving Victoria is sending a terrible message to all surf lifesaving clubs in the state — that is, if something goes wrong, you are on your own, do not count on us.

The action I seek from the minister is for him to use his powers to ensure that these wonderful volunteers are not out of pocket and that the club is fully reimbursed for any legal fees it incurs. It is my understanding that Country Fire Authority members are rightly covered by their peak organisation for these sorts of events, and I hope surf lifesaving clubs and State Emergency Service volunteers receive the same sort of support.

Hallam Road, Hampton Park: upgrade

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — I raise a matter for the attention of the Minister for Transport in the other place. It relates to the need to duplicate Hallam Road between Pound Road and the South Gippsland Highway in Hampton Park. It is an issue I have previously raised with the minister, as has the City of Casey. I know it is also a matter of great concern to the Liberal candidates in the area, Michael Shepherdson in Narre Warren South and Gary Anderton in Lyndhurst.

The chief executive of the City of Casey, Mike Tyler, has written to me on this matter expressing the council's concern about the need for the duplication of Hallam Road between Pound Road and the South Gippsland Highway. In particular he drew attention to the fact that the growing level of heavy vehicle traffic as a consequence of the CSR Ltd sand quarry and also the SITA Environmental Solutions waste facility, both of which have access off Hallam Road. The council has commissioned research that indicates the increase in waste that is handled by the waste facility and the commensurate increase in the number of heavy vehicles that require access to Hallam Road.

Although I have raised this matter with the Minister for Transport previously and he has indicated that the issue will be addressed by VicRoads when it has progressed sufficiently high up the VicRoads priority order, I again draw the attention of the Minister for Transport to the need for Hallam Road to be duplicated. No funding was provided for it in this year's budget. It is a matter of concern for the community and the council. I call on the minister to ensure that in view of the increase in heavy vehicle usage of Hallam Road it be given high priority by VicRoads for upgrading to a duplicated road.

Water: Bendigo stormwater

Hon. D. K. DRUM (North Western) — My adjournment question is for the Minister for Water in the other place, the Honourable John Thwaites. Last Friday I announced a water plan for the Bendigo region which centres around Bendigo capturing its stormwater that currently runs down Bendigo Creek every time there is a significant rain event in Bendigo. I have spent many weeks researching the benefits of this plan and

the way we can ensure that the irrigators that have agreements to use stormwater from Bendigo Creek can be accommodated with an equivalent water package.

In announcing the plan I have identified land in the Huntly region that could be used to build a storage dam with a capacity in the vicinity of 1500 to 2000 megalitres. This land is owned by Coliban Water. By the use of a diversion channel we could fill this man-made reservoir many times each year. In fact each and every significant rain event in Bendigo could see over 1000 megalitres of usable water being captured. The area I have proposed under this plan is 17 kilometres from Bendigo's Spring Gully Reservoir. To best utilise this new captured water we would need to pump it from Huntly to Spring Gully as quickly as possible, a measure which would empty the new holding dam and ready it for subsequent follow-up rain events.

Coliban Water is currently in the planning and design stages of a project which will see it pump recycled sewage water from its waste treatment plant at Epsom through a pipeline 13 kilometres back to Spring Gully Reservoir. It will be critical to the financial viability of the stormwater proposal that I have put forward that this is able to join up with the planned pipeline from the Epsom waste treatment plant to Spring Gully. The diameter of the pipe would need to be significantly larger than the 500-millimetre diameter pipe which is proposed to take the treated water from Epsom to Spring Gully.

I call on the minister to immediately look at the benefits to the Bendigo region of this proposal, and if a cost-benefit analysis can be done immediately we could see this new stormwater plan integrated into the waste treatment project as well, and then Bendigo may well benefit from some 10 000 megalitres of water per annum. The cost-benefit analysis will clearly show that there will be environmental and agricultural benefits.

At long last I will be happy to present a plan that has Bendigo being responsible for its own resource management. This will be a dramatic improvement on where the current direction is heading, with Bendigo planning to take water allocated to primary production from one neighbouring area and at the same time discharge its excessive run-off water onto another neighbouring area, causing salinity and erosion problems on the way. This is a commonsense proposal, and there is the opportunity for it to be a win for everybody — a win for agriculture, a win for Bendigo and certainly a win for the water authorities. This project has every conceivable chance of getting a grant from the National Water Commission.

Drought: Murrayville

Hon. B. W. BISHOP (North Western) — My adjournment issue this evening is directed to the Premier. The action I require from him is to step in and correct a real inequity that has arisen from the rural community infrastructure grants program. This program is administered by Regional Development Victoria, with eight municipalities being offered grants of up to $400 000 each to be applied to a range of projects that would benefit those drought-affected communities that were declared under the exceptional circumstances (EC) assistance package. The Mildura Rural City Council was the grateful recipient of one of the $400 000 packages, and it immediately distributed that money to appropriate projects in the townships of Ouyen, Walpeup, Torrita, Underbool, Meringur, Werrimull and Lake Cullulleraine which were in the exceptional circumstances declared area at the time.

However, as is often the process with exceptional circumstances, more evidence was gathered and more research done, including case studies, and quite rightly the Murrayville area was added to the EC area and those EC benefits were available to members of that community, which was fair and equitable. But the equity stopped when Murrayville put forward its projects for funding from the rural community infrastructure grants program as this was refused by the Minister for Agriculture in the other place, who declared that the program was a one-off so therefore Murrayville would not be funded. I believe no-one is really at fault here. The government put up the money to be allocated to appropriate projects in the townships in a declared EC area and the Mildura Rural City Council did the right thing and allocated the money after consulting with those communities. However, the late inclusion of Murrayville in the EC-declared area saw it miss out on the opportunity to gain funds for much-needed projects in the town.

It is clear that Murrayville has suffered in the same way as the other areas due to drought. This is confirmed by its late inclusion in the exceptional circumstances area, but it is also clear that it has appropriate and necessary projects that its town would benefit from. However, it is shut out simply because of a timing issue which was not of its making. The action I request from the Premier is to address this real inequity that Murrayville finds itself faced with and grant it the appropriate amount of funds that it missed out on through no fault of its own.

Responses

Mr LENDERS (Minister for Finance) — The first adjournment question was from Mrs Coote to the

Minister for Community Services in the other place regarding the *Forgotten Australians* report. I will certainly pass that on to the minister. I note that Mrs Coote got an early birthday present in Malvern at the weekend.

The second adjournment question was from Mr Stoney to the Minister for Transport in the other place regarding centre-line marking placements on snow roads. I will certainly pass that on to the minister for his attention.

Mr Vogels raised an issue for the Minister for Police and Emergency Services in the other place regarding legal expenses for a coroners inquiry, and I will pass that on to the minister for his attention.

Mr Rich-Phillips raised an issue for the attention of the Minister for Transport in the other place regarding an upgrade of Hallam Road. I am sure Mr Rich-Phillips will acknowledge the great work being done on the Hallam North Road upgrade at the moment, but I will pass on his request for Hallam Road to the Minister for Transport.

Mr Drum raised an issue for the Minister for Water in the other place regarding the water plan for the Bendigo region, and I will pass on his concerns to the minister for his attention.

Mr Bishop raised an issue for the Premier regarding rural development funding in his community, and I will certainly pass it on to the Premier for his attention.

Motion agreed to.

House adjourned 6.36 p.m.