PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-FIFTH PARLIAMENT

FIRST SESSION

Tuesday, 3 October 2006

(Extract from book 13)

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By authority of the Victorian Government Printer

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

Parliamentary Services — Secretary: Dr S. O'Kane

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FIFTY-FIFTH PARLIAMENT — FIRST SESSION

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Eren, Hon. John Hamdi	Geelong	ALP	Somyurek, Mr Adem	Eumemmerring	ALP
Forwood, Hon. Bill	Templestowe	LP	Stoney, Hon. Eadley Graeme	Central Highlands	LP
Gould, Hon. Monica Mary	Doutta Galla	ALP	Strong, Hon. Christopher Arthur	Higinbotham	LP
Hadden, Ms Dianne Gladys [2]	Ballarat	Ind	Theophanous, Hon. Theo Charles	Jika Jika	ALP
Hall, Hon. Peter Ronald	Gippsland	Nats	Thomson, Hon. Marsha Rose	Melbourne North	ALP
Hilton, Hon. John Geoffrey	Western Port	ALP	Viney, Mr Matthew Shaw	Chelsea	ALP
Hirsh, Hon. Carolyn Dorothy [1]	Silvan	ALP	Vogels, Hon. John Adrian	Western	LP

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

[2] Ind from 7 April 2005

[3] Ind Lib from 30 November 2005

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Tuesday, 3 October 2006

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

CONDOLENCES

Charles Frederick Van Buren

Mr LENDERS (Minister for Finance) — I move:

> That this house expresses its sincere sorrow at the death, on 11 September 2006, of Charles Frederick Van Buren, and places on record its acknowledgment of the valuable services rendered by him to the Parliament and the people of Victoria as a member of the Legislative Council for Eumemmerring Province from 1985 to 1992.

Fred Van Buren, who was known to some as Freddie, was a man of small stature who was larger than life. He was an extraordinary man and a man of extraordinary energy. It is a privilege, if that is the term, to lead the debate on a condolence motion for a person I knew well for more than 20 years.

To try to get a broader picture of Fred I went at the weekend to speak to Jan Wilson, who shared an office with Fred for six years as an organiser for the Labor Party. She shared one room with him, and people who know about Fred's energy and the space he took up will realise that that was quite an extraordinary achievement. She also shared an electorate office with him from 1985 to 1992, when she was the lower house member for Dandenong North and he was a member for Eumemmerring Province. I thank Jan for sharing her insights and helping me to get my thoughts together in preparing to move this condolence motion for Fred.

I would like to speak about four aspects of Fred: Fred as a person, Fred as a member of the Legislative Council, Fred as the union man, which was very important to him, and Fred as an Australian Labor Party man. Those were four very significant parts of Fred Van Buren's life. In terms of his contribution as a member of Parliament, he was elected as a member for Eumemmerring Province in 1985, served in two parliaments and was sadly swept aside in that tsunami that hit the Labor Party in 1992.

Fred could have been the member for Broadmeadows in the other place. Certainly his heart was up there, and he had the numbers to go there, but he was preselected for Eumemmerring Province. He moved to Dandenong, settled in, became thoroughly a part of the community and enjoyed himself. I first saw Fred in Birch Avenue, Dandenong, where he and Jan shared an electorate office. It was an office which I became very fond of and which I had for three and a half years later on. He was part of the environment out there.

Fred became a member of Parliament and was fascinated by senior citizens, by migrants generally and by school councils. He had an absolute obsession with cricket teams. Fred came from Sri Lanka, his family emigrating in 1960. He came from a Dutch Burgher background, and while the Dutch are not known for their fondness for cricket, Fred certainly was. He loved his cricket, and he loved his local cricket clubs. Fred enjoyed this chamber. He made a lot of contributions, but he loved nothing more than the cut and thrust of Parliament, what happened in the caucus room and the caucus committees, the liaison with the parliamentary party, the organisation and what was happening in his own electorate.

The second part of Fred's life I would like to talk about is Fred the union man. Those who knew him know that unions were his passion; they were part of his life. Not long after he came out from Sri Lanka he became a printer with the railways, as I understand it. He became involved very quickly with both the Australian Railways Union and the Printing and Kindred Industries Union. He knew the unions intimately, and after he left Parliament he became an official with the National Union of Workers. Fred had always been absolutely involved with unions and loved them. He saw unions as the place where working people were looked after. He saw that the collective work was what made life better for people.

Anyone who knew Fred knew that his passion for and support of unions were critical. He certainly spent a lot of time feeling he needed to convince me, as someone who came from a dairying background, of the importance of unions and their history. Fred was passionate about unions and to his dying day was a strong advocate for them. It is interesting that in the 1991 preselections, when Fred was preselected for Eumemmerring Province, he received the highest vote of anybody primarily because of the contacts he had all over the Labor Party and with the union members he knew. Fred was an extraordinary man who lived and breathed unions.

The third area of Fred's life I want to talk about is Fred as an Australian Labor Party man. I think Fred probably joined the Labor Party when he came out from Sri Lanka, or Ceylon as it was then known. He was passionate about it, and it was an important part of his life. I said earlier that he had been an organiser from 1979 to 1985, and I also said that Fred was a very

enthusiastic and passionate man. There was nothing quiet about Fred. I do not think Fred ever had a quiet day in his life. He was energised, and he was passionate. He had a number of roles in the Labor Party, including one as an organiser. In one of his roles he was responsible for organising the Labor Party state conferences, and Fred went about it with gusto. In those days the conference had 456 members, and it was like herding cats in an organisational sense. Fred was out there like a sheepdog herding the cats. He organised it, and he loved it. He would pore over the conference agenda.

The distribution of agenda papers to union delegates, which is something that an organiser often does, is unique to the Labor Party. Fred would go around in a car and deliver them. When people like me and others were organisers it was a task we would do in about half an hour or an hour. Jan Wilson said it would take Fred a day or more to do it, because he would go to every union, have a yarn — he would say what was on the agenda and what was happening with the world. That was just Fred. He loved doing it, and he was energised.

He also was unbelievably energised on the issue of how-to-vote cards. The logistics of that was one of the roles of a party official. For most people that was a big logistical task. Fred was passionate and would not let anything go. Albie Heintz was the Labor Party printer who ran industrial printing and publicity in Dover Street, Richmond. Albie was the chief executive officer of this company and had done the job for years. His father had been the secretary of the Printing and Kindred Industries Union for years earlier. He lived the Labor Party, breathed the how-to-vote cards and knew how important they were. But Fred wanted to make sure that Albie was on top of things and would never let it slip.

Albie prior to one election went off to the Melbourne Cricket Ground. I think it was to get away from Fred, actually, because Fred was checking and double-checking that he had done everything right. Albie thought he was safe. He was at the MCG watching a football match. Ironically it was someone playing Richmond, which was Fred's team, which he was passionate for, and over the loudspeakers came a voice: 'Paging Mr Heintz for an important phone call'. I have never known a person to be paged for a business call at the MCG, but Fred was so tenacious that he actually got Albie Heintz paged to come and take a phone call. That was the nature of the enthusiasm of the man and the nature of the man he was. It shows how importantly he took his role as an organiser for the Labor Party. It is also legendary that he had a locked bottom drawer with ALP membership forms in it. I will not go further than to say that Fred was the custodian of the locked bottom drawer with the forms.

He also became a fundraiser for the Labor Party. I remember my time as secretary of the party, after the Kennett government was elected, and it is fair to say it was not easy being a fundraiser for the Labor Party in those first few years. Surprisingly some members of the community did not think we would ever come back and there was an element of, 'Why would we support the Labor Party?'. One of our first organised fundraisers was a $495-a-head business dinner. We organised it and Fred offered to help. I thought, 'Oh yes, we will do this, we need to do it and it is part of the rebuilding'. Fred took to it with a passion. How he did it I still do not know, but we got 600 people at the height of the Kennett years to come to an ALP fundraiser because Fred was tenacious. I think he probably wore a lot of people down. I think they bought the tickets just to get Fred out of their offices. He was a legend. He loved the Labor Party and would not stop.

The final aspect of Fred I would like to talk about is Fred the person. He came out from Sri Lanka in 1960; he came from a Dutch Burgher background. He was a single man who never married. I think in a sense it was partly because of his passion for the Labor Party and the union movement — he channelled every bit of his energy into the two organisations that he loved. He left a little bit for the Richmond Football Club, and a fair bit for some cricket clubs as well. But that was Fred. He loved it and channelled his passion into those areas. He was very close to his sister, Michele, and her family, and when they moved from Sunbury to Hobart for a few years Fred went with them, after he left the Parliament. But again cricket, Richmond Football Club and the Labor Party and the union movement were the things he really loved.

Those who know Fred will find the final couple things I will say about Fred a bit funny. Fred actually became my fashion consultant one year. I worked in the Labor Party office. I guess it reflects the fact that the organisation did not have a lot of money, but in those days the office did not have any airconditioning. It was a two-storey terrace building and sweltering hot. On 40-degree days it was like a sauna. One day I was wearing a polo shirt and shorts and Roman sandals. Fred took me aside and said, 'This is not a good look for the Labor Party. You are there for the Labor Party. You have got to wear a suit and tie', which I did. I took Fred's advice on board.

The other advice he gave me was also very wise. In 1991 I lost Labor preselection for Knox. Probably in hindsight that was a good thing because it was not a

good career move to be the candidate then. Ironically I lost it to Ms Hirsh. But after the preselection Fred came up and said, 'That was the most woeful preselection speech I have ever heard. If you wish to get preselected again you need to say this, this and this' — and he gave me a whole range of tips. That was Fred the man. After the event if he cared for someone he would come up and offer advice and do it in a private sense. He would not publicly chastise you. He would say you could have done better. He was a very caring man. He was very conscious of bringing people forward into the Labor Party and into the community, with an absolute total passion for everything he did. The term 'politically correct' would never do for Fred. He was totally politically non-correct. He was an unreconstructed, traditional male but an absolutely delightful man who really cared, and he was a man for his time.

In conclusion I would like to read one paragraph of the speech that my friend and Fred's, Jan Wilson, gave in the eulogy at the funeral held on the last day the house sat. She said:

> Today, although we mourn Fred's passing, I believe we can also celebrate a life well lived — a fortunate life in so many ways. We all have reasons to remember Fred: for some he was family, for others a work colleague, a union warrior, a political activist, but I think to all of us he was a true and loyal friend. He was someone who would go the extra mile for us, often exasperating, always persistent, and a champion of the right of each individual to live in a fair and just society. That was Fred.

I am delighted to have been able to move this condolence motion for Fred Van Buren. He was a man who lived 70 years well; his life was a great tribute to the Australian community and the Australian Labor Party.

Hon. PHILIP DAVIS (Gippsland) — On behalf of the Liberal Party I will make a few comments about Fred Van Buren. Fred was not someone I knew at all well, but from time to time I met him as a former member. He was always courteous and interested in affairs of public interest.

In preparing some comments for today I looked at his maiden speech, which probably summarises some of his values. What I thought came from his maiden speech in terms of his character was his persistence. He was proud to be associated with the union movement; he regarded the Labor Party as his family; he was proud to be a migrant; and importantly he was quite humble, but he was an incredibly persistent person.

In the opening paragraphs of his maiden speech he made the point that when he first became involved in the administration of his union, because he was a migrant he was not taken seriously, certainly by the branch president, who would not recognise him when he rose to speak or when he wanted to contribute to a discussion. In the end he was advised to just ignore the president, to get on his feet to intervene, and make his point strongly. This does not come out fully in the flavour of the speech he gave, but I can imagine it would have been in the context of Fred turning the volume up louder and louder so that he would be heard.

Fred came from extremely humble origins, as the son of a migrant family. He worked diligently in his professional endeavours and eventually became committed to the trade union and Labor Party family. Some of the commentary I have seen about Fred is that outside of the family of the Labor movement he was an enthusiast about sport. As the Leader of the Government said, he was enthusiastic particularly about cricket and also football through his support of the Richmond Football Club. He even had the opportunity when he visited London during his Commonwealth Parliamentary Association tour — something which members currently do not have the privilege of undertaking — to spend a day at Lords cricket ground. I think it was actually the highlight of his trip.

In conclusion, Fred was a man of great dignity who was well loved by his colleagues in the Labor movement as somebody who made the Labor movement his home and his family. Although he served only a brief period in the Parliament of Victoria, his spirit is with all members of the Labor Party present here today.

Hon. P. R. HALL (Gippsland) — The Nationals join the government and the opposition in expressing our sincere condolences on the death of Fred Van Buren. I was one of only a few members in this chamber who had the privilege of serving with Fred for a short period of time — from 1988 to 1992 — as a member of the Legislative Council when he was a member for Eumemmerring Province from 1985 to 1992.

I got to know Fred quite well. I found him to be a very courteous fellow, a very friendly person and in summary a thoroughly decent fellow. As the Leader of the Government indicated, he was a very strong union man and a very strong member of the ALP, but he also got on very well with members of other parties.

One of my overarching memories of Fred is of his love and passion for the Richmond Football Club, which first brought us together when we came into this Parliament. Fred had been a passionate supporter of Richmond, and he could recall the early 1970s, when Carlton and Richmond were very keen opponents. Fred

had watched all those games, and he could recall a young number 31 running around in the Carlton jumper at that time and poked a bit of fun at me when I came into this chamber. Carlton had won a premiership in 1972, but Fred had his revenge with the Richmond Football Club winning clearly in 1973 and 1974. He did not let me forget that. He was proud to make those points when we often spoke.

I concur with both the Leader of the Government and the Leader of the Opposition about the attributes of Fred Van Buren. I did not hear him speak a lot in the chamber, but when he did speak he was always given courtesy and respect. He spoke about what he thoroughly believed in, and for that I believe he gained the respect of all members at that time.

I have seen Fred on a number of occasions since he left the Parliament. He was always a chirpy, friendly fellow and he will be sadly missed. On behalf of my colleagues in The Nationals I express sincere sorrow at the death of Fred Van Buren. He was a lovely fellow who had 70 years of life, and it is a shame that he passed so early.

Mr GAVIN JENNINGS (Minister for Aged Care) — I take this opportunity to pass on my condolences at the death of Fred Van Buren and express my regard for his life. I knew him particularly well. I was very grateful for the time we spent in one another's company and for the many things we shared. I also want to reflect briefly on some things which we did not share but which did not stand in the way one iota of the quality of the relationship we were able to establish. Certainly we were very different in physical stature and in our interpersonal dynamics, but I can assure the house that even though Freddie lacked a bit of stature he had a front bigger than Myer's and absolutely asserted himself in any place that he happened to be.

I first met Fred at the Australian Railways Union, which at the time was a left union run by a left secretary Joe Sibberas. Fred regularly walked into meetings of the ARU as if he owned the place. He made it very clear to me as a young activist within the union that he knew it more intimately than I did and that I was on notice in relation to his contacts and connections within the ARU. I am pleased to say that he did not abuse those connections at any time that I was there, but he also made it clear to you, if you were on the other side of the fence in debates that occurred in the Labor Party, where he stood and that he had a privileged position in being able to rely on certain numerical strength, which he brought to bear from time to time. Those numbers were exercised against me on any number of occasions, but that did not get in the way for 1 second with our having a very amicable and heartfelt connection with one another.

I am very pleased to say that every time I came across Fred that was the case. When we were organising passionately against one another's interest in relation to political outcomes in the Labor Party we shared that connection and that degree of cooperation in getting on with one another. Ultimately that is what united us — our commitment to social justice, our commitment to the union movement, our commitment to the Australian Labor Party and our commitment to better outcomes for all Victorian people. I thank Freddie for those outcomes and passions and for the time that we shared together.

The PRESIDENT — I also wish to be associated with this condolence motion. I also knew Charles Frederick Van Buren as 'Freddie', as a former union official with the National Union of Workers, as a Labor Party icon and as a Richmond Football Club supporter.

As the Leader of the Government said, Freddie Van Buren migrated to Australia from Sri Lanka, then known as Ceylon. We have heard about Freddie's tenaciousness and of his having been a supporter of his beloved Tigers football team, but not many people knew that when he was young he chased tigers; he hunted them down barefooted. He came from a very poor background, and that is how he survived. You can imagine a 10-year-old Freddie Van Buren running through the jungles of Ceylon chasing a tiger — and we all know which one ended up the loser! As I said, a lot of people did not know his history before he came to Australia. They knew him as a migrant, as a union official, as a member of Parliament, as a Tigers supporter and as a cricketer.

When I first came into this place Freddie was kind in telling me a bit about the place. I came in on a by-election, so I had not come in with a group of others. Freddie went through and explained a lot of things that happened in the house, how things operated. He said to me that I had to be careful, because when he first came in here Bill Landeryou was the leader. He said he would be standing up there with his notes on what he had to speak about and Bill would just come along and take them away, because he considered you had to know what you were talking about. Not only that but you had to speak on an issue for twice as long as you had planned to do, and that was just the way it was. Whether you were in opposition or in government there was a reason for needing to continue speeches or debate for a certain period.

As anyone who had had a conversation with Freddie knew, when he got excited he got a little faster in his speech and he became a bit harder to understand. It was known that despite how good Hansard reporters are, sometimes they did not quite get everything that Freddie said, which was sometimes to advantage because he used his speech and accent to absolutely hang it on the people sitting on the other side of the chamber — but no-one could understand it. By the time it got into *Hansard* it was all cleaned up — they had read the notes and they had been able to decipher what Freddie had said.

Freddie, the union official, worked well in organising fundraising. I worked with him in the union. The last thing you wanted to do was to be on the end of the phone or sitting opposite him and trying to argue against something, because as the Leader of the Government said, you would just agree with him to get him off your back. You would say, 'Yes, Freddie, that's fine, I will do it; where do I sign the cheque? What time do you want me to be where I need to be?'.

Freddie was a passionate supporter of the Sri Lankan cricket team. He set up an organisation here in Victoria that still goes strong. I had only been in Parliament a couple of months and Sri Lanka was playing in the Boxing Day test. Freddie said to me, 'You have to come out to this function because there are a couple of people I want you to meet'. We went out to the Dandenong area and met about 2000 Sri Lankans; then the Sri Lankan cricket team rocked up. Freddie had organised the community group and the Sri Lankan team. I had not been to the cricket in many years — since before I was a teenager, a long time ago! — and we sat and watched the test. Fortunately Australia was doing well, but Sri Lanka was not, so Freddie had a big conflict: which did he support, Sri Lanka or Australia?

On the last sitting day, 14 September, I attended Freddie's funeral on behalf of members of this place. The Leader of the Government has read part of the eulogy that Jan Wilson gave at the funeral attended by a number of former members of this place and members from the other place — Mary Gillett, Michael Leighton and Jo Duncan. Jo Duncan is the local member from that area; Michael Leighton had served with Freddie; and Freddie was Mary Gillett's campaign director when she first stood for Werribee back in 1996. Jan's contribution had everybody in the church laughing and crying at the same time; it was a tremendous effort from Jan.

As has been said, Freddie never married, but his sister, Michele, who loved him dearly, looked after him when he was seriously ill. I had the opportunity to visit Freddie at the Peter MacCallum Cancer Centre a couple of months ago. He was not doing the best then, but he was a man who loved his union, loved the Labor Party, loved his cricket team and — most importantly — loved Australia. Freddie will be sadly missed.

Motion agreed to in silence, honourable members showing unanimous agreement by standing in their places.

ROYAL ASSENT

Message read advising royal assent on 19 September to:

Catchment and Land Protection (Further Amendment) Act
Heritage Rivers (Further Protection) Act
Owners Corporations Act
Surveillance Devices (Workplace Privacy) Act
Transport (Taxi-cab Accreditation and Other Amendments) Act
Victorian Renewable Energy Act.

PETITIONS

Planning: Surrey Hills development

Hon. D. McL. DAVIS (East Yarra) presented petition from certain citizens of Victoria requesting that the proposed development at 932–936 Riversdale Road, Surrey Hills, does not proceed, and that: (1) the flawed Melbourne 2030 strategy, which is imposing high-rise, high-density developments across established suburbs, be withdrawn; (2) greater power be given to local planning policies and local decision making by stopping the sidelining of local government; and (3) the role of the Victorian Civil and Administrative Tribunal in local planning decisions be reduced (127 signatures).

Laid on table.

Western Port Highway: residential development and traffic control

Hon. R. H. BOWDEN (South Eastern) presented a petition from certain citizens of Victoria requesting that the Victorian government prevent residential subdivision developments and the installation of traffic lights along the Western Port Highway between Dandenong and the Frankston–Cranbourne road (16 signatures).

Laid on table.

Disability services: accommodation

Hon. W. A. LOVELL (North Eastern) presented a petition from certain citizens of Victoria requesting that the state government act immediately to resolve the shortage of shared supported accommodation facilities for disabled adults in the Goulburn Valley and north-east Victoria (23 signatures).

Laid on table.

AUDITOR-GENERAL

Response by Minister for Finance

Mr LENDERS (Minister for Finance), by leave, presented response to Auditor-General's reports tabled during 2005–06.

Laid on table.

PREMIER'S DRUG PREVENTION COUNCIL

Report 2005–06

Mr LENDERS (Minister for Finance), by leave, presented report for 2005–06.

Laid on table.

COMMONWEALTH GAMES

Special purpose financial report

Hon. J. M. MADDEN (Minister for Commonwealth Games), by leave, presented report.

Laid on table.

RURAL AND REGIONAL SERVICES AND DEVELOPMENT COMMITTEE

Retaining young people in rural towns and communities

Hon. R. G. MITCHELL (Central Highlands) presented report, including appendices, 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.

In tabling this report, I start by thanking the staff whose dedication was fantastic throughout the inquiry. We tackled an issue that affects everyone in rural and regional areas — that is, retaining youth in those areas or attracting them back to live, work and be part of the community. I thank Lilian Topic, Peter Chen, Cathy Tischler, Maree Buchanan, and of course our committee, which was chaired ably by the member for Seymour in the other place, Ben Hardman. I thank the member for Gippsland East in the other place, Craig Ingram, the member for South-West Coast in the other place, Denis Napthine, the member for South Barwon in the other place, Michael Crutchfield, the member for Swan Hill in the other place, Peter Walsh, and my colleague in this place Mr McQuilten, a member for Ballarat Province.

The inquiry took a holistic approach. We considered all the reasons people leave rural areas, where they go, what they attend to and what they do. They face many issues, such as job opportunities, education opportunities and the opportunity to get suitable housing for young families as they develop. This government has done a fair bit in the way of transport interchanges, rebuilding infrastructure such as schools and attracting businesses to regional areas as part of its Make it Happen in Provincial Victoria campaign, as well as providing skills training.

We went through the myriad issues and looked at recommendations that we thought would be practical for a government to implement. I hope future governments, when reading this report, look at these recommendations and take some of them on. In fact, they should take them all on, because they are very well thought out. The committee examined the facts in detail, and before a recommendation was made there was a lot of discussion by members about what we should do and how we would be able to achieve things. None of the recommendations listed in the report are pie-in-the-sky stuff; they represent a good, commonsense approach to a very hard issue.

Let us look at some of the recommendations, such as the recommendation that the government should assist public, private and non-government sectors to provide rural scholarship programs and the recommendation that the government commit increased funding to technical education programs to maximise the availability of trade-specific educational resources. Skills training in rural areas is vitally important. If you

look across north-east Victoria, you see that in areas such as Shepparton there is a concentration of one group of trades but a severe shortage of others. Getting the mix better will encourage people to stay and build a life in a fantastic part of the state.

Young people deserve every opportunity to achieve their goals, to create their own pathways and to decide what they will do in the future — whether that is staying and being a valuable contributor in their community or having the option to travel and to experience life in the city and overseas. We need to give them the tools and the opportunity to come back to a regional area, so we need to look at things like broadband and road infrastructure. This report is a great opportunity and a very valuable tool for future governments to look forward, to deliver better services and infrastructure for people, and to give young people a better chance of staying in rural and regional areas and enjoying the lifestyle that has to offer.

Motion agreed to.

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

Alert Digest No. 11

Ms ARGONDIZZO (Templestowe) presented *Alert Digest* No. 11 of 2006, including appendices.

Laid on table.

Ordered to be printed.

PAPERS

Laid on table by Clerk:

2007 World Swimming Championships Corporation — Report, 2005–06.

Adult Parole Board of Victoria — Report, 2005–06.

Agriculture Victoria Services Pty Ltd — Report, 2005–06.

Architects Registration Board of Victoria — Minister's report of receipt of 2005–06 report.

Barwon Regional Waste Management Group — Minister's report of receipt of 2005–06 report.

Budget Sector — Financial Report, 2005–06, incorporating the Quarterly Financial Report No. 4 for the period ended 30 June 2006.

Building Commission — Report, 2005–06.

Central Murray Regional Waste Management Group — Minister's report of receipt of 2005–06 report.

Commissioner for Environmental Sustainability — Minister's report of receipt of 2005–06 report.

Consumer Affairs Victoria — Report, 2005–06.

Consumer Utilities Advocacy Centre Ltd — Report, 2005–06.

Crown Land (Reserves) Act 1978 —

Minister's order of 7 September 2006 giving approval for the granting of a lease at Wombat Hill Botanic Gardens Reserves (three papers).

Minister's order of 7 September 2006 giving approval for the granting of a lease at Geelong Botanical Gardens and Recreation Reserve (three papers).

Dairy Food Safety Victoria — Minister's report of receipt of 2005–06 report.

Dandenong Development Board — Minister's report of receipt of 2005–06 report.

Duties Act 2000 — Treasurer's reports of approved exemptions made on corporate consolidations and reconstructions for 2005–06 (two papers).

Eastern Regional Waste Management Group — Report, 2005–06.

Environment Protection Authority — Report, 2005–06.

Essential Services Commission — Report, 2005–06.

Fisheries Co-Management Council — Report, 2005–06.

Gippsland Regional Waste Management Group — Minister's report of receipt of 2005–06 report.

Glenelg Hopkins Catchment Management Authority — Report, 2005–06 (three papers).

Goulburn Broken Catchment Management Authority — Report, 2005–06.

Goulburn Valley Regional Waste Management Group — Minister's report of receipt of 2005–06 report.

Grampians Regional Waste Management Group — Minister's report of receipt of 2005–06 report.

Highlands Regional Waste Management Group — Minister's report of receipt of 2005–06 report.

Mallee Catchment Management Authority — Report, 2005–06.

Melbourne and Olympic Parks Trust — Report, 2005–06.

Melbourne Cricket Ground Trust — Report for the year ended 31 March 2006.

Melbourne Market Authority — Report, 2005–06 (two papers).

Mildura Regional Waste Management Group — Minister's report of receipt of 2005–06 report.

Mornington Peninsula Regional Waste Management Group — Minister's report of receipt of 2005–06 report.

Murray Valley Wine Grape Industry Development Committee — Minister's report of receipt of 2005–06 report.

National Parks Advisory Council — Report, 2005–06.

North East Catchment Management Authority — Report, 2005–06 (two papers).

North East Victorian Regional Waste Management Group — Minister's report of receipt of 2005–06 report.

Northern Regional Waste Management Group — Minister's report of receipt of 2005–06 report.

Parliamentary Committees Act 2003 — Minister's response to recommendations in Public Accounts and Estimates Committee's Report on 2004–05 Budget Outcomes.

Parks Victoria — Report, 2005–06.

Phillip Island Nature Park Board of Management — Report, 2005–06 (three papers).

Phytogene Pty Ltd — Minister's report of receipt of 2005–06 report.

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

Bass Coast Planning Scheme — Amendment C63.

Baw Baw Planning Scheme — Amendments C32 and C36.

Boroondara Planning Scheme — Amendment C52.

Cardinia Planning Scheme — Amendment C83.

Colac Otway Planning Scheme — Amendment C8.

Corangamite Planning Scheme — Amendment C13.

Gannawarra Planning Scheme — Amendment C9.

Greater Geelong Planning Scheme — Amendment C105.

Greater Shepparton Planning Scheme — Amendment C74.

Hepburn Planning Scheme — Amendments C15 and C37.

Hume Planning Scheme — Amendment C38 Parts 1 and 2.

Loddon Planning Scheme — Amendment C13.

Maroondah Planning Scheme — Amendment C50.

Mildura Planning Scheme — Amendment C37.

Moreland Planning Scheme — Amendment C55.

Surf Coast Planning Scheme — Amendment C26 Part 1.

Wangaratta Planning Scheme — Amendment C26 Part 1.

West Wimmera Planning Scheme — Amendment C10.

Whitehorse Planning Scheme — Amendment C70.

Wodonga Planning Scheme — Amendment C51.

Yarra Ranges Planning Scheme — Amendment C16 Part 2.

Plumbing Industry Commission — Report, 2005–06.

Port Phillip and Western Port Catchment Management Authority — Report, 2005–06.

Public Records Office Victoria — Report, 2005–06.

Premier and Cabinet Department — Report, 2005–06.

Prevention of Cruelty to Animals Act 1986 — Code of Accepted Farming Practice for the Welfare of Sheep (Victoria) (Revision No. 2).

Primary Industries Department — Report, 2005–06 (two papers).

PrimeSafe — Minister's report of receipt of 2005–06 report.

Residential Tenancies Bond Authority — Report, 2005–06.

South Eastern Regional Waste Management Group — Minister's report of receipt of 2005–06 report.

South Western Regional Waste Management Group — Minister's report of receipt of 2005–06 report.

State Sports Centres Trust — Report, 2005–06.

State Trustees Limited — Report, 2005–06 (including financial statements of the Common Funds).

Statutory Rules under the following Acts of Parliament:

Country Fire Authority Act 1958 — No. 123.

Fisheries Act 1995 — No. 122.

National Parks Act 1975 — No. 121.

Transport Act 1983 — No. 124.

Subordinate Legislation Act 1994 —

Minister's exception certificate under section 8(4) in respect of Statutory Rule Nos. 116 and 121.

Ministers' exemption certificates under section 9(6) in respect of Statutory Rule Nos. 121 and 122.

Trust For Nature — Minister's report of receipt of 2005–06 report.

Veterinary Practitioners Registration Board of Victoria — Minister's report of receipt of 2005–06 report.

Victorian Broiler Industry Negotiation Committee — Minister's report of receipt of 2005–06 report.

Victorian Catchment Management Council — Report, 2005–06.

Victorian Coastal Council — Report, 2005–06.

Victorian Commission for Gambling Regulation — Report, 2005–06.

Victorian Environmental Assessment Council — Report, 2005–06.

Victorian Funds Management Corporation — Report, 2005–06.

Victorian Government Purchasing Board — Report, 2005–06.

Victorian Institute of Sport — Report, 2005–06 (two papers).

Victorian Managed Insurance Authority — Report, 2005–06.

Victorian Multicultural Commission — Report, 2005–06.

Victorian Strawberry Industry Development Committee — Minister's report of receipt of 2005–06 report.

Victorian WorkCover Authority — Report, 2005–06.

West Gippsland Catchment Management Authority — Report, 2005–06.

Wildlife Act 1975 — Notice of control of hunting, No. 2/2006, 23 September 2006.

Wimmera Catchment Management Authority — Report, 2005–06.

Yarra Bend Park Trust — Report, 2005–06.

Zoological Parks and Gardens Board of Victoria — Report, 2005–06 (two papers).

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

Environment Protection (Amendment) Act 2006 — Part 4, except sections 42 and 44 — 13 September 2006 *(Gazette No. s243, 13 September 2006).*

BUSINESS OF THE HOUSE

Valedictory statements

Mr LENDERS (Minister for Finance) — By leave, I move:

That standing and sessional orders be suspended to the extent necessary to enable members to make valedictory statements for a maximum of 15 minutes each on the motion for the adjournment of the Council until a day and hour to be fixed by the President to be proposed by the Leader of the Government after the conclusion of the government business program.

Motion agreed to.

Program

Mr LENDERS (Minister for Finance) — I move:

That, pursuant to sessional order 20, the orders of the day, government business, relating to the following bills be considered and completed by 4.30 p.m. on Thursday, 5 October 2006:

City of Melbourne and Docklands Acts (Governance) Bill

Conveyancers Bill

Crimes (Sexual Offences) (Further Amendment) Bill

Charities (Amendment) Bill

Road Legislation (Projects and Road Safety) Bill

Funerals Bill

Sentencing (Suspended Sentences) Bill

Justice Legislation (Further Amendment) Bill.

The government does not often move motions dealing with a government business program. This is the last scheduled sitting week of this Parliament, and the motion would facilitate a Friday sitting, if necessary, to conclude government business, so I urge the support of the house for it.

Hon. PHILIP DAVIS (Gippsland) — It would not be the same unless I rose to oppose this motion. I do so on the basis that the government has informally proposed a legislative program which is not all included in the motion before the house because this house is still to receive bills from the Assembly. The government's intention plainly is to bring down the guillotine on the government's legislative program this week, irrespective of the fact that the Parliament has the capacity to continue to sit for another several weeks before the issue of writs for the 2006 election.

We see no merit in the government business program. We do not believe it will expedite debate on any bill. All it will do is limit the capacity of the Parliament to examine in detail legislation which the executive is putting to the Parliament for its assent. Therefore the opposition opposes the government business motion.

House divided on motion:

Ayes, 22

Argondizzo, Ms	Mikakos, Ms
Broad, Ms	Mitchell, Mr
Buckingham, Mrs	Nguyen, Mr
Carbines, Ms	Pullen, Mr
Darveniza, Ms	Romanes, Ms
Eren, Mr	Scheffer, Mr
Hilton, Mr	Smith, Mr (*Teller*)

Jennings, Mr
Lenders, Mr
McQuilten, Mr
Madden, Mr
Somyurek, Mr (*Teller*)
Theophanous, Mr
Thomson, Ms
Viney, Mr

Noes, 18

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

Motion agreed to.

Standing and sessional orders

Hon. PHILIP DAVIS (Gippsland) — By leave, I move:

> That standing and sessional orders be suspended to the extent necessary to enable the resumption of the debate on the second reading of the Gambling Regulation (Limitation of Number of Gaming Machines) Bill to take precedence over all other general business on Wednesday, 4 October 2006.

Motion agreed to.

URBAN GROWTH BOUNDARY: AMENDMENTS

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

> That, pursuant to section 46AH of the Planning and Environment Act 1987, the following three amendments to modify the urban growth boundary be ratified:
>
> Frankston planning scheme — no. C35.
>
> Wyndham planning scheme — no. C71.
>
> Whittlesea planning scheme — nos C86 and C91.

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

> That the debate be adjourned for two weeks.

Mr LENDERS (Minister for Finance) — Regarding Mr David Davis's motion that debate be adjourned for two weeks, the government opposes this motion for a couple of reasons. Firstly, as Mr David Davis would know, there are eight parliamentary days remaining under this particular provision for resolving this matter, so adjourning it for two weeks is something that would effectively mean it would not be dealt with by this Parliament.

Secondly, this issue was debated in the Assembly some two or three weeks ago. There has been public debate on it and it is now before the house. It is a minor series of technical amendments to the urban growth boundary. The opposition's motion that it be adjourned for two weeks means the opposition does not want it to be dealt with. The government thinks this is an important issue that needs to be dealt with in this parliamentary session, and I urge this to be done.

Hon. D. McL. Davis interjected.

Mr LENDERS — Mr David Davis says it is so important that the minister did not speak to it. When the last urban growth boundary issue came to this house Mr David Davis did not even turn up, so the last amendments went through this house without even a debate. Therefore it is crying crocodile tears for Mr David Davis to say the minister did not speak to it.

The Minister for Planning spoke to this matter in a debate in the Assembly, and I think the minister in this house took a leaf out of the book of Mr David Davis, who did not speak on the last urban growth boundary amendments, which were far more significant than these amendments. I urge the house to reject Mr David Davis's motion so that we can vote on the urban growth boundary amendments proposed by the minister.

Hon. PHILIP DAVIS (Gippsland) — I think the Leader of the Government is perhaps overdramatising the issue here. It is a fact, quite clearly, that the government is treating the Parliament with contempt. The minister responsible for this planning matter has brought it into the house with no explanation whatsoever. It is an act of outright contempt for the procedures of this place where members of the house are entitled to a proper explanation from the executive when they introduce matters of significant import for assent by Parliament.

My colleague the Honourable David Davis has quite properly required an adjournment of this matter so that there can be time for the Legislative Council to reflect upon it in light of the fact of the negligence of the minister who has carriage of the issue. It may be all well and good for the Legislative Assembly to have considered a matter previously, but is it the fact that the Leader of the Government would have this chamber as simply a rubber stamp for the executive which controls the Assembly?

I think that members of this place would resent that imputation. The fact of the matter is that members of

the Legislative Council are entitled to the simple courtesy by the government of an explanation of a matter that is before the Parliament. The minister who has responsibility for the carriage of it is so lazy that he was not prepared to bring in his own explanation about a serious matter that he is putting to the Parliament for approval. It is a disgrace and a sham. Indeed, there is no reason at all that the Parliament cannot meet again in a fortnight. Therefore I support my colleague's amendment that this matter be adjourned for two weeks.

House divided on Hon. D. McL. Davis's motion:

Ayes, 18

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

Noes, 22

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

Motion negatived.

Hon. D. McL. DAVIS (East Yarra) — I rise to make a contribution to the debate on this motion after having sought to have debate on it adjourned for two weeks. I did so because, as the Leader of the Opposition said, the minister has treated Parliament with contempt in his failure to bring forward an explanation of the government's changes to the urban growth boundary. The responsible minister brought the three changes to this chamber without an explanation and without satisfactorily accounting for why the government has sought to do this. It is not satisfactory for the Leader of the Government to say that debate has taken place in the lower house.

Let me explain the nature of the debate in the Legislative Assembly. The amendments were brought in at 9 o'clock on Tuesday night by the Minister for Planning and were crunched through the chamber by 5 o'clock the next day. The amendments make massive changes to the urban growth boundary, without proper process and in a way that does not enable them to be examined by members of Parliament. The government was generous enough to offer the opposition a briefing, which was conducted on the Wednesday at 8.30 a.m. — on the same day the government used its overwhelming numbers in the lower house to crunch the amendments through.

The opposition in the lower house moved a reasoned amendment to delay debate on these changes, but the government again used its overwhelming numbers to defeat that motion and forced debate forward in an absolutely shameful way. Let us be clear about what is going on here: this is now the third set of steps with these ratification processes.

Mr Lenders interjected.

Hon. D. McL. DAVIS — I certainly have spoken on this before, and I want to make the point very clearly that the government will use any trick, any sneaky technique and any approach to crunch these changes through the chambers without the scrutiny of public examination. The government has done that twice before. The previous changes to the urban growth boundary were forced through both chambers in a two-day period.

Ms Carbines — That is not true.

Hon. D. McL. DAVIS — It is true. It is important to detail the changes being made on this occasion, given that the minister did not grace the chamber with any detailing of them.

Mr Lenders interjected.

Hon. D. McL. DAVIS — She is not the lead speaker. She is not the minister responsible. The minister has a responsibility to explain to the house why he wants to bring these changes forward, certainly after I have spoken and perhaps after a number of speakers. That is a contempt of this Parliament. The minister is lazy; he was not prepared — —

Mr Lenders — At least the minister turns up.

Hon. D. McL. DAVIS — The minister did not turn up with his speech today. The minister did not turn up with an explanation, and he should have turned up with an explanation. I make the point to the chamber that this set of changes — amendment C35 to the Frankston planning scheme, amendment C71 to the Wyndham planning scheme, and amendments C86 and C91 to the Whittlesea planning scheme — all amend the urban growth boundary.

There may be genuine debate about the merits of each and every proposal, and it would be legitimate to debate those merits, but the point is that the government has sought again to crunch these changes through without a proper process. I will describe what amendment C35 does. I quote from the government's own Frankston planning scheme amendment C35 under the heading 'Land affected by the amendment' — and in effect I am doing the minister's work here:

> The amendment applies to the Burdett's quarry site, Cranbourne-Frankston Road, Langwarrin. This is an irregular shaped parcel of land that is bounded by the Cranbourne-Frankston Road to the south, Potts Road to the west and Valley Road to the north. The land has an approximate area of 101 hectares and is contained in Crown allotment nos. 31, 34, part 34A and 34C, Parish of Langwarrin.

According to the government's own notes, the amendment:

> Rezones 7.7 hectares of the land adjacent to Potts Road from a residential 1 zone to a rural conservation zone.
>
> Rezones 8.8 hectares of the land adjacent to Cranbourne-Frankston Road from a special use zone 2 (extractive industry) to a residential 1 zone.
>
> Rezones the balance of the land from a special use zone (extractive industry) to a rural conservation zone.
>
> Introduces and applies to part of the land a new schedule 4 to the rural conservation zone …

I could go on with the full detail of the proposed changes. It is important that the house hears precisely what is being proposed by the government. It also:

> Introduces and applies to the land a new schedule 7 to the development plan overlay that specifies certain requirements to be met, including the transfer of the remnant bushland to the Crown. The schedule also details requirements in relation to the low density residential lots, including that no more than 25 lots may be created within the cleared area that is proposed to be rezoned to a rural conservation zone.
>
> Deletes environmental significance overlay (schedule 1) that applied to the land.
>
> Deletes the development plan overlay (schedule 1) that applied to part of the land.
>
> Introduces and applies to the land a new schedule to clause 52.17 that provides for the removal of a limited amount of vegetation.
>
> Realigns the urban growth boundary (UGB) to accord with the new zoning of the land.

This set of changes is significant and has created concern in the community. There are people who have contacted me expressing their concern about these changes. The government talks long and loud about the urban growth boundary or about the wedges, but the truth of the matter is that in this chamber today and in the lower house several weeks ago the government is and was prepared to use its overwhelming numbers to force through these changes that impact on the urban growth boundary and on the green wedges — —

Mr Smith — Justifiable!

Hon. D. McL. DAVIS — Mr Smith may say 'justifiable', but the minister was not prepared to justify them, the minister thought he would flick them through; he thought he could just pass them off. I would like the minister to answer some questions and to explain the actual impact of the changes. How will the amendment impact in Frankston on biodiversity? How will the land exchange that is going to impact on biodiversity there actually operate? The minister should explain that — —

Mr Smith — I will explain that to the member.

Hon. D. McL. DAVIS — Mr Smith can explain it, and I look forward to Mr Smith's explanation, but I also look forward to the minister coming back into the chamber to explain these matters.

Others have already said something about these amendments. I refer to a report by Michael Buxton and Robin Goodman entitled *Maintaining Melbourne's Green Wedges*, which has been downloaded from the Internet. In this document Mr Buxton, who played a role in the genesis and development of Melbourne 2030, talks about Burdett's quarry and proposed amendment C7, which is very similar to this one, with its 101 hectares and so forth. Given his involvement I think it is important to quote what he said in this document. He referred to the example of amendment C7, the proposal to rezone the 101 hectares along Potts Road, Langwarrin, so that half would be in a residential 1 zone and half in the environmental rural zone. He made the point that the panel that looked at it did not support the proposal. He said:

> When viewed on a plan of the overall Frankston-Langwarrin green wedge area it is a major incursion on the green wedge. This should be seen as separate from the issue of whether there is public land protection.

Mr Buxton, a key architect of 2030, says these changes are 'a major incursion' on the green wedges. According to that document, the proposed changes to that 101-hectare area are:

> … a major incursion on the green wedge. This should be seen as separate from the issue of whether there is public land protection.

It is important to get this on the record. It is important that the community understand that on the one hand, this government talks pure rhetoric about green wedges while on the other hand, it is prepared to change the green wedges without a proper process. It is prepared for the minister to come into the chamber today and not give an explanation. It was prepared to crunch through changes to the green wedges in 15 hours in the lower house.

I see Mr Pullen shaking his head, but that is a fact. He should go and read the record to check the facts. It took just 15 hours from the time the change was introduced with the first motion to the time it was passed by the Legislative Assembly. Can Mr Pullen say that any 1 of the 88 members of the lower house of this Parliament had time to properly consult with communities and properly understand each of the changes proposed? That is an impossibility, and Mr Pullen should hang his head in shame.

This government was elected on a platform of openness, transparency and accountability, but it is a sneaky and non-transparent government. It is prepared to use processes to machine things through, to hide and avoid scrutiny. Mr Hall's colleague, The Nationals spokesperson, Mrs Powell, was expected to speak on the amendments in the lower house even before she had received a briefing. That was an absolute outrage. For the Leader of the Government to say that this has gone through the lower house begs the question: what sort of process occurred in the lower house?

Mr Smith interjected.

Hon. D. McL. DAVIS — We never made this kind of change, I can tell you! We never allowed just 15 hours to change the green wedges, to trash the edge of the green wedges. We never did that. We had better processes in that such matters were allowed to lie over for two weeks. The process now being used by the government is outrageous, and community groups are becoming increasingly hostile about it.

Hon. M. R. Thomson — This is actually supported by everyone.

Hon. D. McL. DAVIS — It is not supported by everyone. I have spoken to a number of people who have said they are very concerned, and it is important to put their concerns on the record. The amendments to the Wyndham planning scheme for the marina project are supported by many. I agree the proposal is supported by the council, and many see it as a worthy one.

Mr Smith interjected.

Hon. D. McL. DAVIS — I have to say to Mr Smith that there is an incursion on the green wedge there. There are questions about the biodiversity.

Let me be clear about this: this is another case of the government talking loud and long about coastal policy, yet it is prepared to allow changes to the coastal arrangements that will alter the coastline but not protect it. I have to make the point that the Werribee proposal is one that is worthy of consideration, but the minister was not prepared to make the case for it. He was not prepared to step forward and explain why he, as the responsible minister, was advocating those changes to the house. I repeat that the issue of process is as important as the substance of each and every one of these changes.

I agree that the Whittlesea changes are by and large tidying-up changes. I am quite prepared to say that on the record to make the point. I will do the minister's work again for him and explain to the chamber what we are talking about and what the amendment does, since he could not be bothered.

Hon. M. R. Thomson interjected.

Hon. D. McL. DAVIS — Since he could not be bothered, Minister, and you know that is the fact. According to the government's explanatory report, the amendment corrects an anomaly in the urban growth boundary and the Whittlesea planning scheme to exclude 5.5 hectares of land currently shown inside the urban growth boundary within the Plenty Gorge parklands. The amendment also rezones the portion of land between the title boundary and the former urban growth boundary for the above parcels of land to the same zone as the adjoining land.

I think it is also worth putting on the record, since the minister has not bothered to do so, what C91 does. The amendment makes minor adjustments to the urban growth boundary so that it follows the 185-metre contour and aligns with the existing subdivision boundary. The amendment rezones some minor areas of land from a rural conservation zone to a residential 1 zone and others from a residential 1 zone to a rural conservation zone to ensure that land inside the urban growth boundary remains in a residential 1 zone and land outside the urban growth boundary remains in a rural conservation zone. Consequential adjustments have been made to the boundaries of the vegetation protection overlay, the significant landscape overlay and the development plan overlay.

I think the arguments here are reasonable but that the process by which the government has brought this to

the chamber is suspect. I have to say that in the longer haul, for communities to feel confident about the future of green wedges and for there to be reasonable protection, we need a better process in this Parliament that will ensure that amendments are looked at properly.

The minister might say, if he could be bothered, that there had been discussions at the local council level and that amendments had been exhibited at that point. But that is different from the matters coming to the chamber and members being satisfied as to the nature of the changes. It is also different from members understanding and being prepared to advocate the changes or scrutinise and question them closely, which is a role of this chamber. It is also a role of the Legislative Assembly. Given the travesty of process which occurred in the Legislative Assembly and which is occurring again today — the slippery and shoddy process that has been employed by the government — I do not believe the community can have confidence that its green wedges will be protected in the future.

It is interesting to reflect on this in light of metropolitan planning generally, the government's Melbourne 2030 system and the government's rhetoric statewide on the future and protections of our coast. Ms Carbines was at a meeting that I attended on the coast at Black Rock, near Thirteenth Beach. So you have on one hand the Bracks government and the planning minister, Mr Hulls, in particular, talking about coastal protection while at the same time you have the parliamentary secretary, me, others and a large crowd of the community, I am not sure of the exact number — Ms Carbines might want to estimate that now; I am trying to recollect, but it was a significant number — meeting about a plan to build a thermal drying factory on the dunes down near Thirteenth Beach at Black Rock. I have to say that that is not protection of the coast.

The opposition obviously supports the recycling efforts of Barwon Water, but we think it has the project wrong in the sense that it wants to site a large factory on the coast. I have to say that if this government is serious about coastal protection, it needs to have proper processes that protect the coast. Those processes do not appear to be in place today. They do not appear to be in place down at Black Rock. They do not appear to be in place in many locations around the coastline of this state. Given the importance that people place on the coastal spaces and the need to control development, the need to protect the coast, the need to look at vegetation protection and the need to deal with town boundaries and protect the edges of town boundaries to stop the sprawl going endlessly along the coast and despoiling what is such a precious asset, the government has to have good processes — and its processes are shoddy.

Mr Hulls's release just a few days ago of the coastal spaces landscape assessment study state overview report, which is a glossy document, I have to say, a beautiful document in terms of its presentation — —

Hon. Andrea Coote — Another one to add to the $80 million!

Hon. D. McL. DAVIS — I say to Mrs Coote that as one who likes the coast I looked at the document and enjoyed the fantastic photography in it. But what is the meaning behind that fabulous photography? What is the meaning behind the document? Ms Carbines may seek to explain to the house how the coastal spaces landscape assessment study and its recommendations for overlays and other protections applies to Phillip Island, for example. She might wish to explain to me how it applies in the Bass Coast area and around Phillip Island.

Ms Carbines — How does that apply to this motion, Mr Davis?

Hon. D. McL. DAVIS — I will educate Ms Carbines. One of the aspects of this motion deals with a proposal for the development of a marina on the coast. I am talking about the government's coastal policies, including the release the other day by the Minister for Planning in the other place of the state overview report entitled *Coastal Spaces Landscape Assessment Study — Protection and Management of Victoria's Coastal Landscapes*. It seems to me highly relevant that when talking about the protection of the coast and about the government's release of a planning document, in the same breath the government is using the Parliament to crunch through changes that will impact on the coast.

I need to understand from Ms Carbines, and she may seek to explain, as her electorate is bordered by significant coastline, what she intends to do to protect the coast in the future; what steps she will take personally to protect the coast at Black Rock; what steps she will take to protect the coast — —

Ms Carbines — What will you do?

Hon. D. McL. DAVIS — I have got to say we would have a much better process than what we have seen in the chamber today. We would be prepared to make sure that there is proper scrutiny of these ratification motions. That would be a very good start. Coastal and other protections need to be put in place.

Ms Carbines interjected.

Hon. D. McL. DAVIS — I have to say to Ms Carbines that her record is supporting a factory on the sand at Black Rock. She needs to distance herself from that, as does the member for South Barwon in the other place, Mr Crutchfield, who has been prepared to be quite silent on this and not prepared to advocate on behalf of his community, which does not want that development at that location. His community is strongly committed to recycling but not committed to that project — that is, building a factory that will be there for 60 or 80 years on the coast in South Barwon in the electorate that Mr Crutchfield represents almost silently on this matter. Those issues are relevant today as we look at the possible placement of a marina on a coastal site in Port Phillip Bay. Whatever the merits of that proposal — and there are strong arguments in favour of it — we need to have a process that protects the coast.

The planning system is in chaos in other ways, if we think, for example, of other areas of coastline that are significant. If you looked at the Mornington Peninsula, you would be asking yourself what protections from rampant and unhelpful development are in place down there. The government says it is going to contain sprawl within town boundaries. What does that mean in the case of a town like Mornington on the Mornington Peninsula, for example, where the government has just put a five-storey height limit on the township — five storeys for that seaside town, a holiday resort for many and a town that many have affection for. This government, because it has applied Melbourne 2030 willy-nilly right to the tip of Point Nepean, is prepared to put in a five-storey development limit and thereby, in effect, fuel development in that town.

I think the council has done this with good intent, but it has the wrong approach, because the fact is that the five-storey height limit for development in the town and the structure plan that the council seeks to implement will fuel excessive development, high-density development, inappropriate development, development that the community is not happy with. The Labor candidate for Mornington, Mr Puls, supports this every step of the way, and the minister supports it. An article in the *Mornington Peninsula Leader* of 29 August reported what the minister had said about these coastal areas. He is reported as saying that there was strong demand for residential and commercial growth and that the peninsula cannot be kept in a time bubble:

> The peninsula is strongly linked to the rest of Melbourne, with many parts now within commuting distance …
>
> It is essential that growth and change be properly managed …

I can tell you what is occurring here. It is being managed, and it will be fuelled and will change the nature of the peninsula forever. Nobody I have spoken to, except Mr Hulls and the Labor candidate on the peninsula, Mr Puls, supports these changes, and I suspect the Labor candidate for Nepean and the Labor member for Hastings in the other place, Rosie Buchanan, do not support the changes either. The government has designated three activity districts on the peninsula — one being Hastings, one being Rosebud — —

Mr Pullen — What is your policy?

Hon. D. McL. DAVIS — I will tell Mr Pullen what our policy is. On the peninsula, to protect the peninsula, we have indicated that we will have a Mornington Peninsula-specific planning scheme.

Mr Pullen interjected.

The PRESIDENT — Order! Mr Pullen is not in his place.

Hon. D. McL. DAVIS — We will develop in government a Mornington Peninsula planning scheme to protect the coast from excessive development. We will deshackle the peninsula from the Melbourne scheme that the government supports, the Melbourne scheme that was inappropriately applied. It is not just me who says that; everyone in the community believes that down there.

Mr Smith — No, they don't. They do not!

Hon. D. McL. DAVIS — You support these changes, do you?

Mr Smith — I live in the community and I know a lot of people, and they do not.

Hon. D. McL. DAVIS — I have to tell you that very few down there I have met do, Mr Smith, other than the Labor candidate and Mr Viney, who ought to know better. He is smarter than that; he should have shut his mouth. Let me quote what Alan Hunt, a former planning minister, said. An article of 5 September reports him making it clear by saying:

> We are deeply disturbed at the sudden policy change indicated by the current planning minister, Mr Hulls …
>
> The statement that the peninsula is part of Melbourne and the statement that the peninsula 'cannot be kept in a time bubble' represents a dangerous break with over 40 years of consistent and bipartisan planning.

> Mr Hunt, Sr, was instrumental in the creation of planning policy in the late 1960s and early 1970s that drew a line between the peninsula and the rest of Melbourne.

That is what they did — they drew a line. They said that the peninsula is different, is distinct, and is unique.

Mr Smith interjected.

Hon. D. McL. DAVIS — People move there to get away from Melbourne. The article continues:

> He said Mr Hulls was wrong to see the peninsula as a part of Melbourne.
>
> It is not and (Mr Hulls) risks fracturing the consensus that peninsula councils and communities have supported for 40 years …

Mr Smith interjected.

Hon. D. McL. DAVIS — Members should understand that this is about trashing the peninsula.

Mr Smith interjected.

Hon. D. McL. DAVIS — This is about wiping it out with high-rise, high-density development. This is a crushing blow to the peninsula.

Mr Smith — You're pathetic!

The PRESIDENT — Order!

Hon. D. McL. DAVIS — It is a blow where the Labor candidates ought to step up and say, 'Mr Hulls and the Premier are wrong'.

Mr Smith interjected.

Hon. D. McL. DAVIS — If they had any guts they would step forward and protect their local communities. Further the article states:

> Mr Hunt and his son have called on Mr Bracks to 'recognise and respect' the peninsula's separate identity and create a separate planning policy for the region.

Mr Smith — He is desperate; he is seeing Nepean going out the window.

Hon. D. McL. DAVIS — I have to say that — —

Mr Smith — Mornington on the coastline; he is very desperate.

Hon. D. McL. DAVIS — You do not think Mornington is part of the coastline, Mr Smith, obviously. You do not think it is important that there is appropriate development in that township.

Mr Smith interjected.

Hon. D. McL. DAVIS — It is a good township. It is an area that people move to to get a different lifestyle, a different ambience from that they get in the rest of Melbourne. You may not think that is important, you may think this is a jocular matter, you may laugh at this, but the community does not. I have say to Mr Smith that I think his government will be judged harshly on this.

But it is not just there. If you look around the fringe of the metropolitan area, around the interface council areas, the areas that need proper protections, I have to say that the government is being tardy in protecting many of these areas. I again draw the attention of the chamber to somewhere where vegetation is very important. I particularly draw attention to proposed amendment C40 for the Dandenong foothills area at Knox. There has been a panel report, there has been discussion, and there is strong support by community and councils. I have looked at this and have examined it closely in a personal sense. It is very interesting to drive along Dorset Road. I know the area; my grandfather lived there for many years, so I am quite familiar with the terrain and the boundary that goes from Dorset Road up into the hills.

When you stand there now you can see the changes that are occurring, because the government has failed to install the C40 amendment or similar protection. The Yarra Ranges area, which has proper protection as part of the Dandenong Ranges, has the required planning overlays, amendments and protections. What you see in that area is a simple protection that has operated on a bipartisan basis since the 1970s. This government has been under some pressure for some time to move to protect what is an important ribbon area at the foothills of the Dandenongs and which is in the city of Knox.

Another way to put it is that it is contiguous with the vegetation that goes up the hills. If you stand back a short distance — —

Mr Smith — How about coming back to the bill?

Hon. D. McL. DAVIS — Mr Smith, this is about the urban growth boundary, the protection of vegetation, and the protection of key values that the community is interested to see protected. Mr Smith may make obscene gestures and think that the protection of the foothills of the Dandenongs is not important. I believe it is important, and our candidates believe it is important. Nick Wakeling has been fighting very hard for this in his time on council all the way through.

The Labor member for that area has been virtually silent on this issue and has not been prepared to advocate. She is clearly ineffective in obtaining the required protections. As one can see in the foothills from Dorset Road up into the area of Knox that borders with the shire of Yarra Ranges, there is a thinning of the vegetation as higher density developments occur. The protections are not there. Unless we act quickly, we will lose something precious.

It is not possible to resurrect vegetation after it has gone. Where higher density developments, such as multiple units, are put on one site and the vegetation is lost, then that vegetation will generally have been lost forever. If we lose that vegetation, that heritage will have been lost forever. The government has been shoddy and lazy about protecting these things. The local members in that area should have done the work to get those protections in place.

Over the last few years I have detected a difference in that area which I regularly visit. I believe the community is also aware of the differences, and it overwhelmingly supports proper protections through the C40 amendment. The government should simply get on with it and put those protections in place instead of dithering, delaying and putting precious landscape at risk; once it is lost, we will never get it back.

The bill that modifies the urban growth boundary is interesting because it will also interact with the Growth Areas Authority. The Planning and Environment (Growth Areas Authority) Bill which was passed in this place allows the government to set up the Growth Areas Authority, but we think that authority is a misplaced one. It is indicative of the government's failure to get right planning on the fringe of the city. Spending another $20 million of budget money — money that could be put directly into services in growth or other areas — is wrong. The idea of creating an additional tier of bureaucracy between the six growth area councils, the minister and the department is misplaced. The government has it wrong.

The Labor tendency towards setting up further bureaucracies is unjustified in this case, and the Growth Areas Authority, which has an important role in managing growth around the urban fringe, will intervene unhelpfully in many cases. One of the things that is likely to happen in the longer haul is the growth in costs that will be put on developers through greater development contributions that will be required. Certainly when the bill went through this chamber I got little comfort from the debate and discussions, that that would not be the case in the longer term.

I should also say something about comments on green wedges that have been made by the Greens. I am particularly interested to read the comments by Louis Delacretaz, the Greens candidate for Eastern Victoria.

He is a supporter of Melbourne 2030. He has not fully understood that without withdrawing 2030 and going back to basics — without getting community consensus and a capacity-led growth approach — this 2030 policy is very damaging. The Greens are going to have to confront the fact that they need to be unequivocal in their criticisms of 2030.

Whatever you think about the principles of urban consolidation in the abstract, the application of Melbourne 2030 by this government has been deeply flawed. It is my view that the 2030 document is a spruiking document; in certain respects it is not a real document. It is not a document that actually implemented a proper plan. It is one which gave legal effect to certain principles — of greater density and consolidation — but did not put in place the planning behind those and the infrastructure support and planning encouragement to councils also. The Greens are going to have to come clean on the fact that they do support Melbourne 2030 and are not prepared to go back to basics to get the principles of urban consolidation right.

You cannot have it both ways here. If the policy is being implemented wrongly, you need to go back and get a system in place that will properly deal with the challenge of urban consolidation in a way that has community support. I have to say that community support is distinctly lacking in many areas. There is a crisis of confidence in Melbourne 2030. Communities need to have proper control over their own future, and this have been in effect taken away from them under the Melbourne 2030 system.

Increasingly we have seen the Victorian Civil and Administrative Tribunal acting as a de facto planning authority. Whatever you say about metropolitan planning, I think that view has now reached the point where the community accepts there are problems with the way Melbourne 2030 is operating.

I have to say that VCAT does have to apply the law of the land — and that includes giving effect to 2030. VCAT is often in a position where it knows that developments are not optimum and that developments have little community support, but because of the 2030 provisions — and the focus on consolidation and on height — its hand is forced. This was so in the Mitcham towers decision. Ms Carbines has done nothing to advocate a different approach after that terrible

decision — or that terrible outcome, which is a better way to describe it, because VCAT was of course forced to make the decision it made. Melbourne 2030 forced it into that position of giving effect to its consolidation and height requirements.

It is interesting to see the large number of councils that are coming out with concerns. I have here in front of me a Maroondah City Council media release of 23 August:

> Maroondah City Council has agreed to join the inner south metro group of councils to make a submission to the state government for a review of the role and responsibilities of VCAT.

There is no doubt that Maroondah council, like others, has been a victim of VCAT and some of its decisions. The press release says:

> VCAT has recently overturned a number of council decisions which were based on strategic and planning policies that have been incorporated into the Maroondah Planning Scheme …

The incorporation of policies into the planning scheme of local councils is no protection from VCAT in its current mode where it has to apply the overarching Melbourne 2030 principles. The three main issues that Maroondah council identified were:

> … the lack of application of local policy on decisions, inconsistency in application of decisions by different members of VCAT and the broader issue of the current role of VCAT as a 'de facto' planning authority …

We think that greater weight has to be given to local planning schemes and local council decisions. We think that the idea that people can rush off to VCAT for a quick decision is wrong. Councils have to be forced to take responsibility, on the one hand, but at the same time they have to have in place good local planning schemes.

That is where this government has failed; it has not put in place the systems that are required. The Liberals would withdraw the ministerial directions that give priority to 2030. We would revisit what is required for metropolitan planning and we would invite other parties to join us in that process. Planning should be a bipartisan process to the greatest extent possible, but when this government pushed through the 2030 policy in the slippery way it did in 2002, when it cut short the community consultation processes and when Mary Delahunty, the then Minister for Planning, in effect signed it under the shadow of the 2002 election, the rough edges around the 2030 policy and the problems with the system were not ironed out. The system, which gives overarching power to 2030 and thereby, in effect, to VCAT, is a problem for the community, and I think the community will reject it in the longer term.

The shambles that is the government's planning approach is reflected only in part in 2030. We have also seen amendments to the urban growth boundaries, and I will be very interested to hear Ms Carbines explain in her contribution why Victorians should trust this government on urban growth boundaries, given that it has been prepared to tamper with them without a proper process and without proper scrutiny by this chamber.

All manner of amenities are being threatened by 2030. Just a few minutes ago in this chamber we saw the tabling of a petition relating to a significant development proposed for Riversdale Road — a 16.5 metre-high, five-storey, 50-unit retirement village. The proposed development was rejected once by the council and once by VCAT. Since then it has been rejected again by the council in a modified form and it is now at VCAT yet again.

I hasten to add here that I hold no negative view of individual developers who seek to implement changes and undertake developments within the laws of the land as they stand at the time. The solution to many of these issues is not to criticise developers but to change the planning policies and to change the way that 2030 gives effect to local planning inputs.

I attended a significant demonstration at the Riversdale Road site just a few weeks ago, and I have to say that it is another example of a development that is completely beyond the scope and the scale which the community wants, and which is entirely the 2030 approach.

I want to make some points here about the approach that Labor members take when confronted with developments in their community that are clearly inappropriate and that do not have any significant support in the community. The development at Riversdale Road is a classic example of such a development. Mr Stensholt, the member for Burwood in the other place, also spoke to the meeting, and he tried to say that this was just a bad proposal. He neglected to say that the Labor government put in place the 2030 system which made this development possible — a system that he has always supported. Labor members who do not support 2030 ought to be prepared to speak up. It is no good for them to say 'We just don't like this particular development', when they are part of the government that put in place the planning system that is delivering the development. If 2030 were not in place in its current form and if VCAT were not forced to interpret the metropolitan-wide planning laws in a way that focuses on density and consolidation,

these developments would not be occurring in the way they are.

Planning is a problem across the metropolitan area, and Labor members have to stand up and be prepared to fight for their community. They have to knock down the doors of the Minister for Planning in the other place, Mr Hulls, or of the Premier, and say 'You have to change this policy. This policy is not good enough'. The solution of Mr Hulls and of Mr Stensholt in the case of Boroondara and in some other areas is to put height controls in place.

Have a small think about what those height controls are likely to do. In Mornington the interim height controls are four and five storeys. This will result in massive consolidation. In areas like Bayside and Boroondara there will be significant consolidation because of the government's arrangements under residential zone 3 or various modifications to it. We will see 9-metre height limits. This will produce a very poor design outcome. Three-storey, flat-roofed, square boxes will be produced in some of these suburbs.

The ACTING PRESIDENT (Mr Smith) — Order! It might be very helpful to all of us in the house if Mr Davis were to try to come back to the motion, just a little bit.

Hon. D. McL. DAVIS — Acting President, I am talking, as you know, about metropolitan planning and the planning arrangements.

Hon. M. R. Thomson — It is about the growth boundaries and you are not talking about them at all.

Hon. D. McL. DAVIS — I have been talking about those, Minister, as you well know.

Hon. M. R. Thomson — Not for the last 20 minutes.

Hon. D. McL. DAVIS — As the minister well knows, I have been talking about growth boundaries and the impact of Melbourne 2030 and the arrangements that have been put in place in terms of reviewing decisions made under 2030. The minister's government claims that urban growth boundaries are part of 2030. I think they are only a part of it.

Hon. M. R. Thomson — Don't talk to me about it — through the Chair!

Hon. D. McL. DAVIS — The minister is not here, as you well know, but I have to make the point — —

Hon. M. R. Thomson — He has been saved.

Hon. D. McL. DAVIS — He has been saved, has he?

Hon. M. R. Thomson — From listening to you.

Hon. P. R. Hall — You have 15 minutes left.

Hon. D. McL. DAVIS — I know I have; I am watching that very closely.

In conclusion I want to say that there is a need to put in place in this chamber and in this Parliament a better system to review the urban growth boundary in the future. There will be occasions, as we have seen, when a legitimate set of discussions can be had by the Parliament, but there is no use shanghaiing the Parliament by putting in place a process which means the Assembly has a 15-hour turnaround time to examine a series of significant changes to the urban growth boundary. This government does itself no credit by doing that. It was elected on a mantra of openness, transparency and accountability. That has not been delivered in this case. I have to say that if we were in government we would have a better process to deal with such changes. We would have a process that would be fairer, that would enable communities to have a proper say. We would review the Melbourne 2030 arrangements in place across the metropolitan area, because they are not delivering what the community wants.

Our previous shadow Minister for Planning, the current Leader of the Opposition in another place, Ted Baillieu, said we need a full-time planning minister, a planning minister who is committed to the portfolio, a planning minister who is prepared to engage with councils and make it a full-time job. We need a planning minister who is prepared to do the work, to support developments that are sensible, to support councils in implementing proper protections, to put in place proper arrangements for the urban growth boundary, and to protect the green wedges in the way the community expects. It was the Hamer government, going back to the 1970s, which began the process of establishing green wedges. Whatever problems we have with the green wedges from time to time there is strong community support to see them protected. Until the process in this Parliament is reformed, until there is a proper lie-over period, until there is a proper opportunity for community input, the community can have no confidence at all that those wedges will be properly protected. The idea that you can crunch changes through should give nobody cause for comfort. This government's record on the urban growth boundary and its protection will not been seen in the light it could have been.

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

Quorum formed.

Hon. P. R. HALL (Gippsland) — The Nationals do not oppose the motion, but in my view the government has not done itself any favours with the way it has presented it to the chamber. If somebody moves a motion, the usual practice, whether it be in this house or in any formal meeting, is that they stand and support the motion, to explain to their audience what it is all about, then to present arguments that they hope will persuade others to support the motion. That has not happened today.

As Mr Davis said in his contribution, the motion has been moved but no explanation whatsoever about it has been given. I find that disappointing. By way of interjection a government member said the parliamentary secretary was about to stand up and explain what the motion was all about, and I have no objection to that whatsoever; in fact, I would have been prepared to give leave for her to do just that because quite frankly subsequent speakers from the opposition and from The Nationals would have found it more productive had a government member at least explained or argued the motion before any response was sought from the opposition or from The Nationals.

It is somewhat of a cheek and arrogant for the government to stand up and baldly move a motion without being prepared to support it; that, too, is disappointing. Normally when legislation is before the house we can go to the papers office and look at the second-reading speech, even if it has only been incorporated and not read in the chamber; at least we then have an explanation about the legislation. Members can read the arguments and find out some facts. This has not been the case with the motion now being debated.

I will go to some of the facts relating to the motion as best I can understand them. For the purpose of knowing what it is all about I had to resort to *Hansard* to see what the minister said in the Legislative Assembly a couple of weeks ago. To the credit of the Minister for Planning in the other chamber, he spoke to the motion when it was moved there and explained what it was all about, but to date that has not happened in this chamber.

As I understand it, the motion seeks to modify the urban growth boundary by amending three planning schemes, including two different amendments to one of the planning schemes. We are talking about four amendments to planning schemes: the Frankston and Wyndham schemes and two amendments to the Whittlesea scheme.

I first turn to amendment no. C71 to the Wyndham planning scheme. As I understand it, the amendments will facilitate the construction of a marina complex in Werribee South. In his contribution to the debate in the other house the minister said the urban growth boundary will not be altered, but the residential component of the proposed marina complex requires more intensive subdivision than is currently allowed under the planning scheme. The minister, in his contribution to debate in the Legislative Assembly, also said that the amendment had gone through an environmental impact process and had been the subject of deliberation by an independent panel. We were also told by the minister that it has strong support from the community, local council, business and tourism.

Hon. D. McL. Davis interjected.

Hon. P. R. HALL — Mr Davis says that is true. I suspect there are also people who are not so strongly supportive of it, but on balance my understanding is that the majority of submissions certainly favoured this proposed amendment.

As I understand it, amendment C35 to the Frankston planning scheme is a rezoning scheme of a former quarry site to a rural conservation zone. This amendment also involves a land swap to preserve an area of native vegetation. Again I doubt that this is a major controversy in the Frankston planning scheme area.

The third planning scheme to be amended is the Whittlesea planning scheme. I am advised that amendment C86 realigns the urban growth boundary to land title boundaries and amendment C91 simply corrects a mapping error. So particularly in the Whittlesea planning scheme, I would say they are purely administrative changes of hardly any great significance at all.

In terms of the actual content of the notice of motion, from the brief knowledge The Nationals have been able to obtain — I say 'brief' because I will make a quick comment in a moment about the processes and briefings that were not delivered to The Nationals in respect of this particular amendment — the amendments to the various planning schemes I have just recited do not seem to be of great significance. That is why I said that we will not be opposing this motion before the house.

I concur with some of Mr Davis's comments about the process, both as we have seen it in this the chamber this morning and as it operated when this motion was debated in the Legislative Assembly. The amendments were stampeded through within a week in the Assembly and that is not the current practice. Usually notices of motion or bills are required to lay over for a two-week gap so that people can be briefed and acquaint themselves more thoroughly with the background to the notice of motion or the bill. That was not afforded in this case.

Moreover The Nationals were not even offered or advised that a briefing would be possible prior to debate in the Legislative Council chamber. That was of some concern to my colleague in the other place Mrs Jeanette Powell, who we know is very diligent with respect to the planning matters that she undertakes as part of her portfolio of responsibilities under The Nationals. She likes to do a good job on these matters, but she did not have the opportunity to do so in this case. I think the government has done itself no favours either in the way this motion has been introduced in this chamber today or in the way it was introduced and stampeded through the Assembly when it last sat.

I also want to make a further comment about why this notice of motion is on the notice paper and the process involved. The Minister for Planning in the other place has argued that these planning scheme amendments have been through proper processes, that they have local government, community and business support and that they are minor in nature. It therefore poses a question: if that is all so, why should the Parliament actually be spending the time dealing with them in this place? I note that the Planning and Environment Act 1987 requires amendments to urban growth boundaries or modifications to urban growth boundaries to be dealt with by the Parliament, but it seems to me that if everybody is supporting these planning scheme amendments with respect to the ones that we have before us today, then perhaps there ought to be consideration given to amending the act to bring about a simpler process to ratify these planning scheme amendments.

We all know that for normal planning scheme amendments there is a process by which the Parliament is informed that planning scheme amendments are about to take place, and members have the opportunity to object to those planning scheme amendments if they feel strongly about them. I think there are amendments to about 20 planning schemes on the list of papers, and it is the right of any member of Parliament to stand up and move that any of those planning scheme amendments be disallowed.

I know the planning scheme amendments in this motion relate to urban growth boundaries and therefore there are special provisions within the Planning and Environment Act that say we should do them in this way, but perhaps some consideration should be given to dealing with them in a simpler way. Perhaps they could be put on the papers list with a red flag alert or something like that, or perhaps there should be a requirement that they be explained to members of Parliament through the incorporation of a second-reading speech or an explanatory memorandum indicating the changes. This would give members the opportunity to raise a matter if they felt it was serious enough to be considered by Parliament. It seems to me that we will spend a couple of hours on this motion this morning. The Legislative Assembly would have spent a couple of hours on the matter, and at the end of the day the content of the amendments to these planning schemes were not of such great controversy; everybody seemed to support them. I just make that comment by way of process.

It seems to me that we could be dealing with the amendments in a more efficient manner. Whatever government is in power after 25 November should give some consideration to dealing with planning scheme amendments that involve the urban growth boundary in a simpler but not lesser way which does not mandate that every single modification to the urban growth boundary requires a mandatory and lengthy debate in Parliament. With those comments about process and content, I again indicate that The Nationals will not oppose this motion.

Ms CARBINES (Geelong) — I am very pleased to speak in support of the motion before the house this morning regarding the changes to the urban growth boundary which affect the Frankston, Wyndham and Whittlesea planning schemes. As members of this house well know, the Bracks government has a visionary policy called Melbourne 2030, and that policy is aimed at coping with and catering for the extra million people who are expected to live in the city of Melbourne by the year 2030. We do not want Melbourne to develop in an ad hoc way and to have urban sprawl going on forever, perhaps linking some of our regional cities to Melbourne. We were concerned in our first term of government to implement a planning policy that would in a sustainable way cater for the extra million people that we expect to have living in Melbourne by 2030.

I congratulate the former Minister for Planning in the other place, Ms Delahunty, for the Melbourne 2030 policy. It does have broad support from all stakeholders. People want certainty, developers want

certainty, the community wants certainty, and local government wants certainty. Melbourne 2030 can afford that certainty to all stakeholders. As part of our Melbourne 2030 policy we legislated to draw an urban growth boundary around the city of Melbourne. We have done that to make sure that the population growth we expect in Melbourne over the next 24 years is going to be managed sustainably and that we do not have ad hoc growth and sprawl.

When the urban growth boundary legislation was introduced it was the subject of a very long debate — I think it was an overnight debate in this chamber — and we now have the urban growth boundary in place. During our term of government we have also introduced historic legislation to protect Melbourne's green wedges. This important legislation will ensure that between areas of medium to high-density living there is land for open space and green wedge space. We have legislated to ensure those areas are protected. We have made sure that land is available for development; in fact we will have a supply of land available for 25 years. We have put in place the Growth Areas Authority to manage our growth corridors into the future.

Part of our legislation on the urban growth boundary is the requirement that any changes must be brought before Parliament. We do not stand aside from that. We think it is very important that any changes to the urban growth boundary are brought before the people's place — before the Parliament — for appropriate scrutiny. That is a rigorous process, and I invite members to contrast that process with the last time those opposite were in power under the seven dark years of the Kennett government when — —

Hon. J. A. Vogels — Last century.

Ms CARBINES — Yes, it was the last century, that is right — and the policies were last century policies. You would never have had any scrutiny by Parliament of any planning scheme amendments. In fact under the Kennett government you were lucky to have any notification locally that rezonings were going to occur. I can remember a number in my electorate happening in the minister's office, and the last people to find out about them were the community and the local council concerned. Mr David Davis should not stand up in this place and give lectures about process and transparency because when the government Mr Davis was part of was last in power it had no care for transparency or process. It behoves everyone to scrutinise the Liberal Party's actions when it is in power and not what it says it is going to do when it is desperately trying to get support in the lead-up to a state election.

Mr Davis bangs on in this place about process when he has not even had the interest to take part in any of the processes the Bracks government has put in place in relation to the planning system and planning policy. Where was his submission into my cutting red tape planning review? The Liberal Party did not put in a submission. It was absent in relation to that. Where was the submission in relation to the Coastal Spaces project? Again it was absent on that. Mr Davis comes in here and likes to talk profoundly about planning policy, but when one scrutinises what he has contributed it is absolutely zero. Mr Davis has taken no part in any of the processes the government has put in place. He is Mr All Care and No Responsibility! The only planning policy Mr Davis has talked about is ripping up our planning policy and starting again. The Liberal Party is talking about taking up to two years, if in the unfortunate circumstance it should win the next election, to establish a new planning policy. Goodness knows what will happen in those two years. It will be on for everyone, on for young and old, in planning. I say we should judge Mr Davis on what he does when he is in power and not by what he says when he is desperately seeking power.

Yesterday we might have thought from listening to ABC radio 774 that we had a new shadow Minister for Planning. Mr Dalla-Riva was getting stuck into the Victorian Civil and Administrative Tribunal, saying basically that the Liberal Party would get rid of VCAT. The Liberal Party set up VCAT, so that is very interesting. Again we should judge the Liberals on what they do and not on what they say they are going to do.

A few weeks ago I was at a lunch hosted by the Urban Development Institute of Australia (UDIA), which was very supportive of Melbourne 2030. It was very supportive of the government's policy in relation to available land and supportive of the planning process we have in this state. I know that local government is supportive of what we are doing in planning because I have had local government representatives sit with me on my cutting red tape task force steering committee and at the planning round table. There is wide endorsement of the planning policy by all stakeholders — local government, developers and the community.

The changes today relate to three specific municipalities — the city of Wyndham, the city of Frankston and the city of Whittlesea. The Werribee boat harbour, which is really what amendment C71 is all about — creating a safe harbour between Williamstown and Geelong — has the full support of the City of Wyndham. I have met with the City of Wyndham a number of times, and it has raised this

issue with me. It is very supportive of the project. In fact securing a marina facility at Werribee South has been the policy of both the state government and the Wyndham City Council over the last 20 years, going back to the 1980s. The site has been identified in the Victorian coastal strategy, Melbourne 2030 and the local planning scheme as an appropriate place for a safe harbour. We have had a vigorous process of assessment in relation to the planning scheme amendment. We have had an environment effects statement which found that the project has environmental benefits. We have had a full exhibition process that attracted 145 submissions, 129 of which were fully supportive of the proposal.

The proposal has been thoroughly assessed by an independent panel, which strongly supported the proposal. The panel concluded that the proposal will deliver a range of recreational, social and economic benefits not only to the Wyndham community but to the whole state. It will deliver over $500 million worth of benefits to the local economy, and there will be over 300 jobs in the construction phase of the Wyndham marina. It is a very exciting concept, and the government is pleased to bring before Parliament this change to facilitate the development of a safe harbour at Wyndham.

The second planning scheme amendment we are discussing today is amendment C35, which is concerned with Burdett's quarry in the city of Frankston. Mr Smith has had a long and sustained interest in the outcome of this amendment, and I look forward to his contribution because he has been working closely with the community, the property owner and the Frankston City Council to bring the change to fruition today.

The site is an old sand quarry on the Cranbourne-Frankston Road at Langwarrin. About 60 hectares of this site have been used for extraction, resulting in the site becoming degraded and unsightly. We are interested in the remaining approximately 40 hectares of the site which is covered in significant vegetation. This planning scheme amendment will realign the urban growth boundary to facilitate the redevelopment of a disused quarry and enable a land swap to protect the significant native vegetation.

The area of land containing the significant native vegetation will be rezoned to a rural conservation zone and placed outside the urban growth boundary, while a similar sized area of land will be rezoned from special use to residential 1 and will be included within the urban growth boundary. This planning scheme amendment will ensure the protection and management of around 52 hectares of state significant vegetation. That is a very good outcome, and I am pleased that the government is able to facilitate that. It has the support of the Frankston City Council. The alternative to this sensible outcome could have seen that state significant vegetation lost for all time. The government is pleased to be able to act this morning through this motion to preserve that state significant vegetation.

Lastly, planning scheme amendments C86 and C91 concern the city of Whittlesea. Amendment C86 realigns the urban growth boundary to properly recognise three small parcels of land which total about 5.5 hectares and form part of the Plenty Gorge Regional Park. This amendment will alter the existing urban growth boundary to correspond with the title boundary; it will fix up some anomalies that occurred in the first instance when the urban growth boundary was set.

Amendment C91 to the Whittlesea planning scheme gives proper effect to a change to the urban growth boundary in South Morang made in November last year. This change established a new boundary between the urban area and the Quarry Hills Regional Park; however, the exact location of the urban growth boundary was plotted to an incorrect contour at that time and now needs to be corrected. It is a simple technical correction of an error that was made at the time.

All of these sensible planning scheme amendments that the government is bringing to the house today for debate have the full support of the local councils. One of them will facilitate the development of a safe harbour between Williamstown and Geelong, and that will be very welcome.

Although it was arduous and difficult to have to listen to Mr Davis for the 45 minutes during which he contributed to debate on the motion, I was pleased that he actually showed up this time. The last time we were debating changes to the urban growth boundary Mr Davis was not even in the chamber. He was so interested in his role in this place at that time, as the spokesperson for planning, that he did not even bother to turn up.

His eye was not on the ball. He was probably out of the chamber, writing a press release and was about to send it out when he tripped himself up. He accuses us of slippery actions and tricks to fool the opposition, but we do not need to do that for Mr David Davis, because he trips himself up. The government's amendments to urban growth boundaries were passed by this place without debate, because Mr Davis was missing in action. He cares so much about planning that he could

not even be bothered to turn up! It caused great embarrassment to some of his colleagues on the opposition benches at that time. It was amusing to see. One of the fond memories I have of Mr Davis in his role as the shadow Minister for Planning was when he suddenly found out that he should have been in this chamber to debate changes to the urban growth boundaries. He looked quite sick. It is one memory I enjoy reminding him of when I get the opportunity. It is great that he showed up this morning, and it is pleasing that he gave members the courtesy of being in this chamber this time. His contribution was of course not worth much, and we would expect that. With those few words, I am pleased to support the motion before the house.

Mr SMITH (Chelsea) — I rise to speak in support of this motion which proposes amendments to the urban growth boundary because, firstly, these adjustments we are making smack of commonsense and display for everyone the degree of flexibility that this government has. We in this state, including those of us in this city, pride ourselves on the fact that Melbourne regularly wins the global award for the most livable city. Melbourne regularly wins that award and wears it as a badge of honour. One of the reasons that we win the award is that we have a great mixture of residential areas, parklands and protected areas. As a result of Melbourne 2030 — a policy the government brought in a few years ago — we were able to guarantee the long-term protection of these areas and the enhancement of our environment. As has been mentioned, because of the way this government has been performing, we expect to attract another 1 million people to Victoria, including to Melbourne. For that reason we need to have long-term visionary planning about how we manage this.

We on this side of the house have decided that we do not want Los Angeles around Port Phillip Bay. We want Melbourne around the bay because, frankly, anyone who has been overseas, particularly to Los Angeles, would be stunned by anything a government did to facilitate a replication of that here. We are doing things that will avoid that replication in the long-term future. The fact remains that we cannot stop urban sprawl on the one hand and prevent high-density living on the other. The cost of infrastructure is one of the reasons we want more intensive population areas. The amount of money it costs to develop these new suburbs is quite prohibitive. If we are going to talk about another 1 million people, then it simply cannot be done. I proudly stand here in support of these amendments and the government's policy in particular.

Members have talked about these three amendments before the house. The Werribee planning scheme will allow for a safe boat harbour. Given there is no safe boat harbour between Melbourne and Geelong, this seems to be quite sensible, particularly because the boating industry is skyrocketing as a direct result of the positive economy that we have at the moment. There are a lot of boat people now.

Hon. D. McL. Davis — Thank you, John Howard!

Mr Gavin Jennings — There are a lot of boat people. We accept boat people, but he doesn't!

Mr SMITH — Yes, in fact we have one in this house. I want to put on the record that whilst I am supporting the schemes at Whittlesea, I am not so keen on the Frankston scheme, particularly with regard to the grand plan. There are three proposals there; one will definitely damage the beach and therefore I do not support it. But we are not talking about that one today. The Anglesea amendment simply facilitates an adjustment that needs to be made in the current boundary because of a stuff-up by the local council, as I understand it — and some of them are pretty good at that.

Hon. D. McL. Davis — You mean Whittlesea.

Mr SMITH — I stand corrected, if I said anything other than Whittlesea; I meant Whittlesea. I thank Mr David Davis for his assistance.

The Burdetts quarry in particular is of real interest to me because I have been heavily involved with this issue for a few years now. By way of history, Burdetts came to my office some time back seeking assistance with this block. For years and years under the previous government it tried to have it rezoned to avoid the need to dig the quarry, extract the sand and then turn it into a tip, which inevitably would have occurred, because the urban area was moving very close — in fact, right across the road. In other words, we had mainly working-class people living across the road from this proposed quarry. It was felt it had to be protected for all the reasons mentioned by previous speakers, such as protecting state-significant vegetation and the little bush wallabies — Skippies — hopping around.

There was some real disputation over this issue. Some defenders of the green wedge were very opposed to the Burdetts proposal. They did not want the boundary altered at all, as they felt it would set a precedent for other areas. The fact remains that commonsense had to prevail — certainly in my opinion. I did not want a quarry dug across the road from working people's homes. I was very supportive of this amendment, along

with my colleague the member for Cranbourne in the other place, Jude Perera. Today brings about the result we were after. Now those people will not only have a very high-quality housing estate opposite them but also the protected bushland associated with it.

It is unfortunate that we did not get the result we wanted initially, because I think that would have been even better. It could have been held up as an example of what can be done in future planning in terms of environmentally designed estates. For example, it would have used recycled water for a common car wash area and there was a plan to apply to all residences a levy that would go to the council and provide for ongoing maintenance, fencing and rangers to ensure the area was kept in a pristine state. We had a lot of argy-bargy over this — a lot of arguments with different groups — but at the end of the day the council, which I have to say was almost negligent in not putting in this amendment originally so that the boundary for the green wedge was on the inside of the property, which would have avoided all of this, has finally come good. I have no doubt that this is a very positive outcome for the people of Frankston.

I heard Mr David Davis say maybe eight people objected; I think I could run around and get 8000 people who are supportive of it. The people who are on the biosphere committee support it. For those who do not know — Mr Davis does know something about it — I was heavily involved in the Mornington Peninsula biosphere a few years back. The people involved in the biosphere are very keen to see this site developed. They want to use it as a nursery for regenerating native bush. There is real scope there to do it particularly well.

I heard Mr Davis refer to the shock, horror stories of massive development on the Mornington Peninsula, particularly in Mornington itself — up to four storeys — —

Hon. D. McL. Davis — Five.

Mr SMITH — Maybe five — heaven forbid! What scaremongering from you, Mr Davis! I have to say it: I think you deliberately lied to this house to push your own barrow. You are panicking over the seat of Mornington and over Nepean, and you, along with the federal member, Greg Hunt, will do and say anything because you know you are in trouble there.

The ACTING PRESIDENT (Hon. Andrew Brideson) — Order! Mr Smith should address his comments through the Chair.

Mr SMITH — It is interesting that Mr Hunt is here, there and everywhere, because he knows he is in trouble, too, politically. I am interested in Mr Davis's assessment of his father's contributions many years ago about the green wedges or whatever, but he is not particularly keen about what Mr Davis is saying or the lies he is spreading there. The scaremongering he is engaging in, in Mornington in particular, is just outrageous.

What we have done today is appropriate, and it again demonstrates the flexibility of this government. They are good amendments, and I commend them to the house.

Motion agreed to.

SENTENCING (SUSPENDED SENTENCES) BILL

Second reading

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

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

That the bill be now read a second time.

Incorporated speech as follows:

Sentencing is one of the most important and difficult tasks in the criminal justice process. In sentencing, courts are required to take into account a number of matters, such as the seriousness of the offence, the culpability of the offender, the personal circumstances of the victim and the effect of the crime on the victim.

A sentencing court must consider all of these matters and balance the interests of the community in denouncing criminal conduct with the interests of the community in seeking to ensure, as far as possible, that offenders can be rehabilitated and reintegrated into society. Such rehabilitation and reintegration obviously benefits not only the individual in question but also the broader community.

The government is committed to ensuring that it listens to what the community has to say in regard to sentencing issues. This is why the government established the Sentencing Advisory Council — to ensure that the community has a forum for taking into account informed community views on sentencing on a permanent and formal basis.

The council comprises 12 members, including persons with experience in community issues affecting the courts, persons with experience in both the prosecution and defence of criminal offences, persons with experience in victims of crime support and advocacy and a person with direct experience as a victim of crime.

This bill gives effect to recommendations in part one of the Sentencing Advisory Council's final report on suspended sentences.

Suspended sentences can be imposed once a court has decided that an offender should receive a term of imprisonment — but that it is appropriate to either partially or fully suspend it. An offender on a suspended sentence faces imprisonment for the term of the sentence that has been suspended if he or she reoffends during the operational period of the sentence. Otherwise, the offender is free to live in the community without any further restraints.

For example, a person may receive a three-year sentence, suspended for two years. This means that if the person reoffends during the two-year operational period, he or she may have to serve up to three years in prison.

I asked the council to review the use of suspended sentences in August 2004. The government was concerned that suspended sentences might not be serving the Victorian community well, and in particular that there was a growing disparity between the application of the law and the Victorian public's perception of the criminal sentencing process. In particular, there were perceptions that some perpetrators of violent offences were being let off too lightly when they received suspended sentences.

The council concluded that there were indeed problems with the operation of suspended sentences, particularly in relation to serious offences. The council recognised what sectors of the community had already expressed — that suspended sentences, though notionally equivalent to actual terms of imprisonment, are in fact not the same at all. As such, particular care must be taken in determining whether a suspended sentence does in fact adequately denounce, deter and condemn the behaviour of the offender.

The council has also recommended that wholly suspended sentences should be phased out by December 2009. This is a long-term proposition. The council recognises that suspended sentences could only be abolished once alternative sentencing orders have been developed and implemented, and resources are in place to support the new system.

Part two of the council's final report, which has not yet been released, will detail what the council believes to be the necessary changes to other sentencing orders. The government will consider the question of the abolition of suspended sentences in the light of that second report.

In the short term, the council has recommended a range of changes to the operation of suspended sentences to restrict their use and to improve other aspects of the system.

The government has accepted these recommendations and they will be implemented through this Sentencing (Suspended Sentences) Bill.

I now turn to the detail of the changes.

Factors to which courts must have regard

The bill introduces a set of factors into the Sentencing Act 1991 which courts must have regard to when considering whether it is desirable in the circumstances to impose a suspended sentence. These factors are specific to suspended sentences, but complement the existing general sentencing guidelines in section 5 of the act.

The factors that a court must have regard to include:

> the need, considering the nature of the offence, its impact on any victim and any injury, loss or damage resulting directly from the offence to ensure that the sentence:
>
> > adequately reflects the court's denunciation of the offender's behaviour;
> >
> > provides effective deterrence; and
> >
> > reflects the gravity of the offence;
>
> any previous suspended sentence imposed on the offender (including any breaches);
>
> whether the offence was committed during the operational period of a suspended sentence; and
>
> the degree of risk of the offender reoffending.

These factors will assist the courts by providing guidance in relation to the use of suspended sentences.

Restriction on use of wholly suspended sentences for serious offences

Currently, a suspended sentence can be imposed in relation to any offence. However, the council found that many of the concerns about the appropriateness of suspended sentences related to their use in serious offences, such as rape and other violent offences.

Accordingly, the bill provides that courts must not impose wholly suspended sentences for serious offences unless there are exceptional circumstances which make it appropriate to do so, and it is in the interests of justice.

Serious offences are defined in section 3 of the Sentencing Act 1991 and include murder, manslaughter, rape, armed robbery, sexual offences involving children and a range of other offences involving violence.

The government has decided to impose an additional requirement, which was not included in the council's recommendation, that if a court decides to impose a suspended sentence, it must also provide reasons for doing so.

This provision will significantly limit the use of wholly suspended sentences for serious offences, while still allowing the courts to exercise their discretion. We have not ruled out the use of suspended sentences for these offences but this bill will ensure that a suspended sentence will only be imposed if there are exceptional circumstances and it is in the interests of justice.

Young offenders and breach of suspended sentences

At present, an 18–20-year-old who breaches a suspended sentence and is ordered to serve the component of the term of imprisonment that was suspended has to serve the term in an adult prison. This is despite the existence of the 'dual track' system in Victoria, which allows judges or magistrates at the point of sentencing to elect to send such young people either to adult prison or, if they are assessed as suitable, to a juvenile justice facility.

This means that a young person who might have been deemed suitable for a juvenile justice facility had the judge or

magistrate decided not to suspend the sentence originally is nonetheless automatically sent to an adult prison if they breach the suspended sentence by reoffending.

Juvenile justice facilities are specifically designed to address the needs of younger offenders. These facilities focus on the early identification of risk factors which contribute to young people's offending behaviour. Through an intensive case management approach, these facilities incorporate a comprehensive range of rehabilitative programs and services that are appropriate to the individual developmental stages of children and young people. The government considers that young offenders who are deemed suitable for detention in a juvenile justice facility should be given the opportunity to serve any term of imprisonment in this specialist environment rather than in an adult prison.

The bill addresses the existing anomaly by allowing a judge or magistrate to send such a young person to a juvenile justice facility upon breach of a suspended sentence, providing the young person is deemed suitable for such a facility.

Streamlined approach for breach of suspended sentences

At present, when an offender breaches a suspended sentence, there is an administratively cumbersome process for dealing with this breach. This involves separate charges and potentially proceedings relating to both the new offence and the breach of the suspended sentence which is triggered by the new offence.

The council recommended that the offence of breaching a suspended sentence be abolished and instead that a more streamlined process be developed for bringing the offender back before the original sentencing court.

The bill sets out mechanisms for doing this.

Ensuring time spent in custody is taken into account

Finally, the bill clarifies that any time that a person spends in custody in relation to proceedings for breach of a suspended sentence is taken into account if that sentence is restored.

For example, if a person breaches a two-year suspended sentence and is detained in custody for three months before the breach proceedings have been finalised, then the court determines that the full sentence should be served, the person will be required to serve a further 21 months (that is, 2 years minus the 3 months).

This ensures consistency with existing practices whereby time spent on remand is deducted from any subsequent term of imprisonment.

Transition

The government wants the new rules to commence as soon as possible — but inevitably the effect of these changes will not be felt overnight. The bill will commence on 1 November 2006. The new rules on suspended sentences will apply to offences committed on or after the day the bill commences. This is in keeping with the convention that a person is sentenced for an offence in accordance with the laws that were in place when he or she committed that offence.

The new provisions relating to breaches of suspended sentences will apply to any conviction entered on or after the commencement date, where that conviction constitutes a breach of a suspended sentence.

Conclusion

This bill will address many of the deficiencies in the use of suspended sentences that the council and other groups have identified. In so doing, it recognises that suspended sentences are not the same as terms of imprisonment and that we must ensure that suspended sentences adequately denounce, deter and condemn behaviour they are targeted towards.

The Sentencing Advisory Council consulted widely during the development of its proposals. I thank the council for producing such a thoughtful and useful report on suspended sentences and look forward to receiving the second part of the council's report. This bill demonstrates the government's commitment to listening to what the Sentencing Advisory Council has to say and to striking the right and responsible balance when addressing the effects of crime on the Victorian community.

I commend this bill to the house.

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

Debate adjourned until next day.

JUSTICE LEGISLATION (FURTHER 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 Gavin Jennings.

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

That the bill be now read a second time.

Incorporated speech as follows:

This bill contains a number of amendments to legislation related to the justice portfolio. The amendments reflect the government's commitment to ensure the justice system continues to work efficiently and fairly.

Confiscation Act 1997

The bill amends section 17 of the Confiscation Act 1997. This section enables a court to require that notice of an application for a restraining order over property be given to any person who the court believes may have an interest in the property.

A restraining order is an important interim step under the confiscation regime. The purpose of such orders is to prevent property being disposed of before a final determination as to whether the property should be forfeited can be made. Such determinations are often made after the property owner is convicted of a relevant offence.

Until recently, the courts exercised the power to require notice of an application for a restraining order very rarely. In other words, almost all applications for a restraining order were made without notice to affected persons and, as a consequence, heard in the absence of such persons.

Where a restraining order is made in relation to a person's property and the person has not had notice of the application, the applicant is required to give notice of the order to the person. This notice enables affected persons to take a number of actions including applying to have property excluded from the order, the order varied or a security undertaking substituted for the restrained property.

In the recent decision of *Navarolli v. Director of Public Prosecutions*, however, the Court of Appeal determined that notice of applications for restraining orders should be routinely given. Acknowledging that its decision could lead to the dissipation of assets prior to a decision on the application, the court proposed that interim orders could be granted on an ex parte basis and notice then given to persons whose property interests were affected by the application so that the affected people could contest the application.

This Navarolli decision adversely affects the confiscation scheme by increasing the number and length of court hearings and increasing the risk of assets being dissipated prior to forfeiture orders being made. This strikes at the efficacy of the scheme, the principal purpose of which is to deprive criminals of the spoils of their criminal activity and disrupt criminal enterprises.

The amendments to section 17 are intended to restore the pre-Navarolli position — that is, that notice of applications for restraining orders would only be required in exceptional circumstances and, as a consequence, almost all applications heard and determined in the absence of affected persons. They are not designed to constrain the courts' discretion to require notice, but rather guide the courts' consideration in individual cases. Relevant factors to that consideration include:

the aim of restraining orders of preserving property until a forfeiture decision is made;

the risk that giving notice may pose to a related criminal investigation or the safety of any person involved in it;

an affected person's right to seek to have property excluded from the operation of a restraining order;

any submissions made by the applicant for a restraining order; and

any other matter the court considers relevant.

The bill also amends the Confiscation Act 1997 to:

ensure that respondents to civil forfeiture applications have the same rights as any other party with an interest in relevant property to seek to have property excluded from a forfeiture order;

make clear that a disposal order made upon a person's conviction for a forfeiture offence is only stayed by an appeal against conviction and not an appeal against the sentence; and

validate restraining orders made from the commencement of the act until 26 September 2005 to address a technical defect in the form of such orders. That defect is that the orders were made against specified persons rather than in respect of specified property.

Victorian Civil and Administrative Tribunal Act 1998

To improve the efficiency and timeliness of VCAT proceedings, the bill extends the power to issue final injunctions and make declarations in tribunal proceedings to the tribunal's legal practitioner members.

The bill will also allow the tribunal's legal practitioner members to summarily dismiss proceedings that are frivolous, vexatious, misconceived, lacking in substance or an abuse of process at the directions hearing stage.

The bill makes further amendments to provide that a judicial member of the tribunal may have regard to the principles set out in part 2 of the Sentencing Act 1991 when considering whether to impose a sentence of imprisonment for contempt of the tribunal. This will promote consistency between the courts and the tribunal when considering sentences of imprisonment.

The bill also provides for a judicial member of VCAT to grant bail under the Bail Act 1977 to a person apprehended by police for failure to attend VCAT or provide documents in response to a summons.

Classification (Publications, Films and Computer Games) (Enforcement) Act 1995

The bill amends the Classification (Publications, Films and Computer Games) (Enforcement) Act 1995 to allow the director of the classification board to exempt certain approved public organisations — such as the Australian Centre for the Moving Image (ACMI) — from classification requirements in respect of films and computer games.

The director's power to exempt will be subject to the proviso that only Victorian statutory bodies which conduct activities of an educational, cultural or artistic nature will be able to be considered for exemption. In addition, the director will be empowered to place conditions on such exemptions. The conditions are likely to include matters such as a prohibition on the exhibition of works that are or would be classified X18+ or which have been refused classification and a requirement to provide content warnings and to restrict access where a work contains restricted content.

The amendments are particularly important for ACMI, which is a unique cultural and artistic institution. Since its inception, ACMI has been constrained in its ability to carry out its activities by the technical requirements of the national classification scheme. An exemption would enable ACMI to exhibit a wider range of moving image material and to better provide its innovative public program.

Legal Profession Act 2004

The Legal Profession Act was passed in December 2004 and established a new regulatory framework for the legal profession in Victoria. The act also implemented national model provisions developed through the Standing Committee of Attorneys-General to provide the basis for consistent regulation of the legal profession across Australia.

Since the act commenced, the national model provisions have been further refined and local stakeholders have also contributed to developing amendments to finetune the operation of the act. The bill includes a small, but essential, number of these enhancements.

This bill includes important amendments to the costs disclosure and review provisions of the act. In particular, the bill makes provision for 'sophisticated clients'. These are clients who are experienced and knowledgeable in relation to legal matters. As such, they do not need to be given the detailed information about legal costs otherwise required under the act and should be allowed to contract out of the statutory costs review regime. The bill also expands the range of clients considered to be sophisticated to include entities such as large proprietary companies, receivers, liquidators and administrators.

Professional Standards Act 2003

The Professional Standards Act 2003 was passed as part of the national tort law reforms with the specific objectives of improving professional service standards and limiting the occupational liability of professionals in certain circumstances.

Members of professional associations with schemes that are approved under the act have the benefit of having their liability capped in the event of a claim being brought against them in connection with the performance of their occupation.

The Victorian act is based on the NSW Professional Standards Act 1994. Similar legislation, based on the NSW act, is now in effect in all other states and territories.

In late 2005, professional associations seeking to register schemes in Victoria and renew schemes in NSW raised concerns over a drafting anomaly in certain provisions in the legislation which affects their ability to satisfy the requirements necessary to obtain capped liability. The amendments contained in this bill seek to correct the drafting anomaly by enabling professionals who are members of capped liability schemes to hold either costs-inclusive or costs-in-addition insurance cover.

Correcting this anomaly recognises that Victorian legal practitioners are currently required to hold costs-inclusive cover through the Legal Practitioners Liability Committee and that other professional service providers also generally hold costs-inclusive cover due to the wider availability of this type of policy in the current insurance market.

The amendments also seek to ensure that consumers of professional services will not be disadvantaged because the professional's maximum liability to the consumer will still remain up to the amount of the cap, as determined under the act, regardless of whether the relevant professional holds a costs-inclusive or costs-in-addition insurance policy.

The proposed amendments are to be uniform national amendments which have the in-principle support of the Standing Committee of Attorneys-General.

Equal Opportunity Act 1995

The current Equal Opportunity Act prohibits discrimination on the ground of 'industrial activity' in certain areas of public life. 'Industrial activity' is defined to include being a member of an industrial organisation or participating in a lawful activity organised by an industrial organisation.

The Victorian Civil and Administrative Tribunal (VCAT) has interpreted the terms 'industrial activity' and 'industrial organisation' broadly. VCAT has held that while a collective dimension is required to constitute an industrial organisation, a formal link with a union is not required. Similarly VCAT has interpreted industrial activity to include action to promote compliance with relevant awards or workplace regulations or action that encourages, supports or assists such activity.

To reflect VCAT's decisions, the bill amends the definitions of 'industrial organisation' and 'industrial activity' and adds a new definition of 'industrial association'. These changes are particularly important in light of the federal government's WorkChoices legislation, which has restricted unions' rights to represent their members.

The bill also introduces a representative complaints mechanism to the equal opportunity jurisdiction. Bodies with sufficient interest in a complaint will be able to lodge a complaint on behalf of a named complainant or complainants. It will ease the concerns that some individuals have in lodging a complaint in their own capacity. The mechanism matches that in the Racial and Religious Tolerance Act 2001.

The Equal Opportunity Commission of Victoria is responsible for administering the Equal Opportunity Act. Its role includes receiving and investigating complaints made under the legislation. Currently, commission members cannot delegate their complaint handling functions to officers of the commission. The bill rectifies this situation. Commission members will now be able to delegate complaint-related functions to officers of the commission. This will further improve the commission's efficient and effective operation.

Finally, the bill amends the definitions of 'employment', 'employee' and 'employer' in the Equal Opportunity Act to reflect changes in the terminology used in the federal workplace relations legislation as a result of the WorkChoices reforms. These changes are to be retrospective to 27 March 2006, the date the WorkChoices legislation came into effect. This will ensure that employees engaged under the new arrangements will be protected by the Equal Opportunity Act. A transitional provision is also included so that employees engaged under industrial agreements entered before the WorkChoices legislation took effect will also be protected.

Sex Offenders Registration Act 2004

The bill amends the Sex Offenders Registration Act 2004 to clarify that persons who were serving suspended sentences for certain sexual offences when the act commenced on 1 October 2004 are subject to the operation of the act.

The recent Supreme Court case of *DPP v. Neisser* (2006) VSC218 concerned an offender who was serving a suspended sentence in respect of registrable offences at the time of the commencement of the act.

In the first instance, the court found that because the offender was serving a suspended sentence, he was not under the supervision of a supervising authority, and therefore not within the class of offenders who were eligible to be placed on the sex offender register. The appeal decision of the Supreme Court of Victoria upheld the magistrate's view.

Arising from this case, the bill makes technical amendments to the definition of 'existing controlled registrable offender' to specify all types of sentences for which registration applies as at 1 October 2004, and to explicitly clarify that the act applies to persons who were serving suspended sentences for registrable offences as at 1 October 2004.

Given the reasoning of the Supreme Court in the Neisser case, the bill will also amend the definition of 'supervising authority' to mean the authority prescribed by the regulations as a supervising authority that is deemed to have custody of, or be responsible for, supervising a registrable offender under this act, and to deem the Secretary of the Department of Justice to be the supervising authority for persons serving a suspended sentence, or a good behaviour bond under the Sentencing Act 1991, for the purposes of the act and the regulations.

These amendments are not intended to either extend or restrict the scope of the Sex Offenders Registration Act 2004 from that originally intended at the time the act commenced on 1 October 2004. They are intended to clarify the application of the act and ensure it is effectively implemented.

Corrections and Sentencing Acts (Home Detention) Act 2003

In 2003, the government enacted the Corrections and Sentencing Acts (Home Detention) Act 2003. This act amended the Sentencing Act 1991 to empower a court to make a home detention order where it has imposed a sentence of imprisonment (a 'front end order') and the Corrections Act 1986 to empower the Adult Parole Board to make a home detention order where a prisoner nears the end of a term of imprisonment (a post prison or 'back end order').

The legislation contains a sunset clause which will see the program cease on 1 January 2007, unless amending legislation is introduced to continue the program.

During the passage of the act in 2003, the former Minister for Corrections made a commitment that the program would be reviewed after two years of operation. This evaluation was undertaken by Melbourne University and has now been completed.

The report highlighted the program's success in reducing reoffending as the recidivism rate was lower than expected for program participants, given their risk of reoffending profile.

The government intends to use the review to further refine and improve the home detention program. The government also welcomes perspectives from members of the community, the courts, the legal profession, Victoria Police and others on how the program might be further improved.

Fair Trading Act 1999

The bill amends part 10 of the Fair Trading Act 1999 to allow inspectors to enter business premises to monitor compliance with that act. The amendments will not allow inspectors to enter parts of business premises used for residential purposes. Safeguard provisions to protect affected businesses include the privilege against self-incrimination; a requirement for inspectors to identify themselves; a register of inspections; and a system for lodging complaints about the conduct of inspectors.

In its current form, the Fair Trading Act requires an inspector to form a suspicion that a contravention of the act has occurred before inspection of a business can take place. This has meant that Consumer Affairs Victoria has been forced to rely heavily on consumer complaints before any action to inspect a business premises could be taken.

Generally that means poor trader conduct cannot be detected before consumer harm has already occurred. Compliant businesses may have suffered a competitive disadvantage compared with non-compliant businesses that have been able to supply goods or services at a lower price because they have not incurred the expense of meeting product safety or other standards required by law.

The new fair trading monitoring power will allow for the early detection of trader conduct that is potentially harmful to consumers or is anticompetitive.

Fair trading inspectors in most other states and territories may enter premises to check compliance with fair trading laws.

The proposed amendment has been developed with a view to appropriately balancing the powers of inspectors, supervision of those powers and the rights of businesses.

The new monitoring entry power will not affect existing obligations on business, only the manner in which inspections may be conducted by Consumer Affairs Victoria. Consumer Affairs Victoria has a similar power in relation to licensed premises but it lacks formal power to monitor non-licensed premises. While it is not expected that this power will be used frequently, there will be circumstances where it is necessary to ensure compliance with the law. It is expected the power will be used with due respect for the day-to-day operation of businesses. Consumer Affairs Victoria has a published compliance and enforcement policy which will be updated to refer to the use of this new power.

The new fair trading monitoring entry power will enable Victoria to participate in, and lead, national consumer protection programs.

Several of the consumer acts referred to in the Fair Trading Act are also affected by the bill. Some of these acts will be amended to include provisions similar to those being inserted into part 10 of the Fair Trading Act. Other consumer acts which already apply some of the inspection powers in part 10 of the Fair Trading Act are amended to apply the new provisions. Consumer Acts that already apply the whole of part 10 of the Fair Trading Act with specific exceptions will automatically adopt the amendments to that part.

The safeguards applying to the new power in the Fair Trading Act will also apply to the affected consumer acts.

Other amendments

The bill also amends:

the Council of Law Reporting in Victoria Act 1967 to increase the representation of the Law Institute of Victoria and Victorian Bar Council on the Victorian Council of Law Reporting by one member each;

the Gambling Regulation Act 2003 and the Casino Control Act 1991 to clarify compulsory training requirements for gaming venue and casino employees;

the Infringements Act 2006 to provide for an extended period for lodgment for infringement offences issued under section 40 of the Local Government Act 1989 and section 161 of the Electoral Act 2002 to allow those offences to be lodged up to six months from the date of service of the infringement notice;

the Judicial College of Victoria Act 2001 to add the term 'judicial registrar' to the definition of 'judicial officer' to allow judicial registrars to access judicial education services offered by the Judicial College of Victoria;

the Juries Act 2000 to streamline empanelment processes and improve safeguards for prospective jurors;

the Magistrates' Court Act 1989 to add senior investigators from Centrelink and the Department of Foreign Affairs and Trade's passport fraud section to the list of officers authorised to take statements for hand-up briefs;

the Working with Children Act 2005 to ensure that any person who receives a 'negative notice' is prohibited from performing child-related work, even if the person's occupational field has not yet been phased in. The phasing-in arrangements are intended to ensure a smooth transition to the scheme and allow a longer lead time for some occupational fields. The amendments make clear, however, that under no circumstances should a person who has received a 'negative notice' be permitted to undertake child-related work;

the Attorney-General and Solicitor-General Act 1972 to establish a more appropriate and coherent pension structure for the Solicitor-General; and

the Victorian Law Reform Commission Act 2000 to provide that an acting chairperson of the commission may be appointed on a part-time or full-time basis.

I commend the bill to the house.

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

Debate adjourned until next day.

CRIMES (SEXUAL OFFENCES) (FURTHER AMENDMENT) BILL

Second reading

For **Hon. J. M. MADDEN** (Minister for Sport and Recreation), Mr Gavin Jennings (Minister for Aged Care) — I move:

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

I draw to the attention of the house that the Crimes (Sexual Offences) (Further Amendment) Bill 2006 was amended in the Legislative Assembly, and I inform the Council of the nature of those changes.

The Crimes (Sexual Offences) (Further Amendment) Bill 2006 was introduced to the Legislative Assembly on 8 August 2006 and second-read on 10 August. On 14 September 2006 the Attorney-General introduced house amendments to the Crimes (Sexual Offences) (Further Amendment) Bill. The bill and the house amendments were passed in the Legislative Assembly on 14 September 2006.

The house amendments will clarify the transitional arrangements in the Crimes (Sexual Offences) Act 2006, which was passed by Parliament on 26 February 2006 and will commence on 1 December 2006.

The Crimes (Sexual Offences) Act — the 'first act' — was the first piece of legislation developed in response to Victorian Law Reform Commission's recommendations for legislative reform in its final report *Sexual Offences* and will make a broad range of legislative changes including making it easier for children and people with cognitive disabilities who allege sexual assault to give evidence; strengthening certain sexual offences against children and people with cognitive disabilities to better capture offending conduct; and amending the rules in relation to the admission of certain types of evidence in sexual offence cases to prevent retraumatisation of complainants through the criminal prosecution process.

The house amendments made to the Crimes (Sexual Offences) (Further Amendment) Bill, which is currently before the house, will clarify the following transitional arrangements for the first act: the procedural changes in that act only apply to hearings — and, in some cases, proceedings — commenced on or after the commencement of that act; the current form of the offences amended by that act are preserved in the relevant schedules or definitions to the Crimes Act 1958, the Sentencing Act 1991 and the Serious Sex Offender Monitoring Act 2005 to ensure that forensic sampling, indefinite sentences and extended supervision orders regimes continue to apply to offences committed prior to the commencement of that act; and the substantive amendments in that act only apply to offences committed on or after the commencement of that act.

The house amendments therefore ensure that there can be no potential argument about when each of the provisions of the Crimes (Sex Offences) Act 2006 will apply to offences and proceedings and will minimise the risk of unnecessary appeals.

Motion agreed to.

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

That the bill be now read a second time.

Incorporated speech as follows:

This bill is the second bill to be introduced by the Bracks government in response to the hard-hitting findings of the Victoria Law Reform Commission's *Final Report — Sexual Offences Law and Procedure*. In its report the commission found that there is a high incidence of sexual assault, a low disclosure rate, serious health consequences for victims of sexual assault, relatively low prosecution and conviction rates and a criminal justice response that, in many cases, causes further trauma to victims.

The commission proposed a large number of wide-ranging recommendations in recognition of the need for a broad systemic response to the problem of dealing with sexual assault. Approximately half of the commission's recommendations were legislative and this bill implements the majority of the outstanding legislative recommendations. These legislative changes represent one component of a broader policy initiative to make the criminal justice system respond to sexual assault in a fairer way, and in a way that does not retraumatise victims.

Amendments to jury warnings regarding delay

The current law in the Crimes Act 1958 in relation to jury warnings in sexual offence cases was designed to reflect the reality that many sexual offence victims delay reporting the offence. The Crimes Act provides that a judge must not warn or suggest to the jury that the law regards complainants in sexual offence cases as an unreliable class of witness. The Crimes Act also provides that if delay in reporting the offence is raised as an issue in the trial, the judge must tell the jury that there may be good reasons for such delay.

Despite the intent of these provisions, the High Court has said that they do not prevent a trial judge from commenting that a delay in reporting a sexual assault could affect the credibility of the complainant. This was developed in the case of *Crofts v. R* and is known as a Crofts warning. This means that in certain sexual assault cases where there has been a delay in reporting, the judge may be required to give conflicting instructions to a jury. On the one hand the judge must not warn or suggest to the jury that the law regards complainants as an unreliable class of witness yet, on the other hand, they are obliged by law to comment that a delay in reporting affects the credibility of the complainant.

The High Court has also held that the law does not remove the need to warn juries about the effect of delay on the ability of the accused to put forward a defence. This law was developed in the case of *R v. Longman* and is known as a Longman warning. The warning advises the jury in sexual offence cases that by reason of delay, it would be 'unsafe or dangerous' to convict on the uncorroborated evidence of the complainant alone.

The Victorian Law Reform Commission found that the purpose of the current legislative provisions is being undermined by these common-law warnings. The statutory directions and the common-law directions appear to contradict each other and consequently cause confusion for juries.

It has also been found that the widespread use of these warnings serve to perpetuate outdated assumptions surrounding female victims of sexual assault — in particular that women lie about rape and are therefore unreliable witnesses.

The new provisions will ensure that such warnings will be restricted to cases where a request has been made for such a warning by the accused and the court is satisfied that the accused has in fact suffered some significant forensic disadvantage due to a delay in reporting.

The mere passage of time will not necessarily establish a significant forensic disadvantage and the judge may refuse to give the warning if there are good reasons for doing so.

These amendments address concerns that these warnings are being given routinely, in cases involving increasingly shorter periods of delay and in circumstances where they had not been requested.

No particular form of words will need be used when giving the warning but the judge must not suggest that it would be 'dangerous or unsafe to convict' the accused because of any demonstrated forensic disadvantage. This form of words, which has been routinely used in the past, has the potential to be interpreted by juries as a direction to acquit the accused and, ultimately, to usurp the jury's function in evaluating evidence. For these reasons this form of words will be prohibited.

Giving evidence via alternative arrangements

As the commission found, the adversarial nature of the criminal justice process makes giving evidence a difficult process for most witnesses in criminal trials and the experience is particularly daunting for complainants in sexual offence cases because of the nature of the offence and the intimate matters on which they are likely to be questioned. The provisions in this bill strike an appropriate balance between ensuring a fair trial for an accused and protecting the interests of complainants.

The bill will amend the Evidence Act 1958 to create a right for complainants in sexual assault cases to give their evidence to the court through alternative arrangements that do not require them to be in the same room as the accused person, instead allowing them to be seen and heard via closed-circuit television. Although these alternative arrangements for giving evidence have previously been available to victims, they are rarely used. These changes will ensure that these arrangements are available to a complainant as of right and will make the use of such arrangements more routine.

The new provision will still allow the prosecution to apply for an order that the complainant give evidence in the court room. However, before a court can make such an order it must be satisfied that the complainant is aware of his or her right to give evidence by way of closed-circuit television and that the complainant is able and wishes to give evidence in the courtroom.

Where a complainant does give evidence in court, the court will be required to direct that a screen be used to remove the accused from their direct line of vision unless the court is satisfied that the complainant does not wish a screen to be used for this purpose.

This legislation will also create a right for a complainant to have a person of their choice beside them for the purpose of providing emotional support while they are giving evidence, whether or not they give evidence by closed-circuit television.

The amendments will ensure that where the court is of the opinion that it is not in the interests of justice for a particular person to provide support to the complainant, that person shall not be entitled to act as a support person, but this will not prejudice the right of the complainant to have an alternate support person beside them, subject to the court's approval of the alternate support person.

Sexual offences list in the Magistrates Court

This bill will provide statutory recognition of the establishment and operation of a sexual offences list at the Magistrates Court and will ensure its perpetuity in the years to come.

The sexual offences list will be a specially managed list of all cases in the Magistrates Court that relate to a charge for a sexual offence. The list will provide a greater level of consistency in the handling of these cases and is consistent with a more specialised approach in handling sexual offence cases, recognising the unique features of such cases and the difficulties faced by complainants.

Enshrining the sexual offences list in the legislation symbolises the fact that sexual offences are taken seriously by the criminal justice system.

The operation and the administration of the sexual offences list will be at the discretion of the Chief Magistrate, who may issue practice directions, statements, or notes for the court in relation to the operation of the list. These amendments do not take away from, or limit, a discretion or power already conferred on the Chief Magistrate by or under the Magistrates' Court Act.

General

All of the amendments in this bill pertaining to the Crimes Act and the Evidence Act will apply to any proceedings that commence after the commencement of the bill.

Part 5

The bill was amended in the Legislative Assembly to clarify the transitional arrangements for the Crimes (Sexual Offences) Act 2006 which will commence operation on 1 December 2006. The Crimes (Sexual Offences) Act made a number of legislative changes to reduce the level of trauma experienced by sexual assault victims in the criminal justice system.

The changes included a number of amendments to sexual offences in the Crimes Act. The relevant definitions and schedules listing offences which make offenders eligible for indefinite sentences, forensic (DNA) samples and extended supervision orders were amended to reflect those amended offences.

The amendments in this bill will preserve the offences in their pre-amended form for the purpose of these various definitions and schedules. This will remove any doubt and ensure that a person convicted of such a (pre-amended) offence will continue to be subject to those regimes after 1 December 2006.

The transitional provisions also clarify that the procedural changes in the Crimes (Sexual Offences) Act only apply to hearings (and, in some cases, proceedings) that commence on or after commencement of the act, and that the substantive amendments in the act only apply to offences committed on or after commencement of the act.

These transitional provisions will reduce the likelihood of appeals when the reforms in the Crimes (Sexual Offences) Act commence. Such appeals and possible re-trials would undermine the act's principal objective of improving the experience of sexual assault victims in the criminal justice system.

I commend the bill to the house.

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

Debate adjourned until later this day.

CITY OF MELBOURNE AND DOCKLANDS ACTS (GOVERNANCE) BILL

Second reading

Debate resumed from 14 September; motion of Ms BROAD (Minister for Local Government).

Hon. J. A. VOGELS (Western) — The Liberal Party does not oppose the City of Melbourne and Docklands Acts (Governance) Bill, but we point to the hypocrisy of the Bracks government, which I do not find surprising as I sit here and listen to it on a regular basis. The house has just heard the debate about amendments to the urban growth boundary, which are obviously very flexible; however, debate on that motion has been finalised.

I have been under the illusion that the Docklands Authority was set up by the Kennett government and that stripping away the powers of local councils was forced on the Docklands area by the Kennett government. However, in having a good look at the legislation that formed the Docklands Authority I discovered that the authority was actually established by the previous Kirner government.

The Kirner government set up the Docklands Authority, stripped away local democracy from that area and took away the planning powers from local government at the same time. I looked through the 1999 ALP policy document entitled *Putting People First*. I think it was actually signed off by Mr Lenders at the time. He was not in the house then, but the document talks about a new style of leadership for local government. Under the subheading 'Labor's policy for local government' the document states:

> Labor will bring the Docklands precinct under the control of democratically elected local government.

Yet here we are in 2006 — seven years later — saying that by 2008, when all local councils in Victoria will have their next council elections, Docklands will come under the control of the Melbourne City Council. The 1999 document goes on further to say:

> Labor will clearly define and protect local government planning powers, and allow fewer areas for unilateral ministerial intervention.

Part of this bill ensures that the planning powers will not go back to local government — they will stay with the Docklands Authority and the Minister for Planning.

Under 'Docklands' the same document says:

> In removing the Docklands precinct from normal democratic processes the Kennett government is condemning the residents of Docklands to a system that is backward looking, undemocratic, and obsessively focused on purely commercial consideration. It is bad public policy.
>
> Labor believes that democracy and development can go hand in hand.
>
> Labor will bring the Docklands precinct under the control of democratically elected local government.

This was in 1999, and it is not the truth. I actually took this paper put out by the Labor Party in 1999 on face value, believing that it was the Kennett government that set up the Docklands Authority, when in fact it was not the Kennett government at all — it was the Kirner government. I would like to put the record straight right now on that matter.

Going back through *Hansard* of 1991 it is interesting to read some of the speeches. The Labor Party idea of setting up the Docklands Authority at that stage involved looking for somewhere to put a casino. Mr Kennan, who was the then Minister for Major Projects, said:

> As honourable members are aware the government has already announced that it intends that a casino be built at the Docklands, which will give the redevelopment of the area a kick-start.

That was the main reason the Docklands Authority was set up in 1991 — so that we could have a casino down there in the Docklands area.

It is also interesting to read some of the vision that was shared in 1991 by the then Leader of the Opposition in this place, Mr Mark Birrell. He said:

> The coalition has a vision for the Docklands area that sees it being developed with considerable success over the next 15 to 25 years. We want to create a vibrant and economically successful precinct that will provide a brand new gateway to our capital city.

He went on to say — and I find this interesting when you go down to that area now:

> The coalition believes the development of the whole Docklands area should be designed to emphasise the spectacular relationship with the water and to create view corridors back to the existing Melbourne skyline.

He also suggested that the tram network should go down there, and further said:

> A full investigation should be made towards upgrading the existing Spencer Street railway station, potentially resiting it further up Spencer Street so that Bourke Street could be extended in an uninterrupted vista to the water's edge … The redevelopment would desirably be constructed and run by private enterprise and could incorporate a terminus for the very fast train.

This was back in 1991, and 15 years later we still do not have a fast train, but we do have Spencer Street opening on to Bourke Street. A lot of vision was shown by the then opposition in 1991, when the Docklands Authority was being set up by the Kirner government.

Coming to this moment in time, it does not surprise me that what this government, which always claims to be open, transparent, consultative et cetera, says are just empty words. I asked the Melbourne City Council if its members were happy with the consultation on handing back the Docklands to the council. I have a copy of a letter that the Lord Mayor, John So, wrote to the Minister for Local Government. It says:

> At a council meeting of the 29th August, item 5.1 — Docklands transition — status report, in reference to the Docklands legislation which has been introduced into the Victorian Parliament, the council resolved as follows:
>
> That council:
>
> notes the information in the report;
>
> notes that the Docklands legislation tabled in the Victorian Parliament was without detailed consultation with council; —

that does not surprise me; does it surprise anybody else?—

> advises the state government it is concerned with an inequitable representation in formation of the section 86 coordination committee and voting rights attributed to the various members; and
>
> states that its preferred option is that the section 86 coordination committee comprises only three VicUrban representatives and three council representatives.

That is, not also someone appointed by the minister.

When the Docklands area is returned to the City of Melbourne, which must be either before or on 1 January 2008, the Docklands Co-ordination Committee will be established. The committee will be comprised of three members nominated by the Melbourne City Council, three nominated by VicUrban and one nominated by the minister. The bill provides that five members constitute a quorum of the committee and that at a meeting where the minister's appointee does not preside all decisions must be unanimous.

Hon. Andrea Coote — Speaking of a quorum, Mr Acting President, I draw your attention to the state of the house.

Quorum formed.

Hon. J. A. VOGELS — As I said, the bill provides that five members of the committee constitute a quorum and that when the minister's appointee does not preside all decisions must be unanimous. You would wonder why all decisions have to be unanimous. In a democracy I would have thought that 51 per cent is close enough.

Although the committee will include representatives of the Melbourne City Council, the council will have very little if any control over it because the VicUrban appointees will no doubt be hand-picked by the government of the day and at the end of the day the minister will appoint a chairman who will do exactly what the minister wants.

What also concerns me is that this legislation excludes this committee from abiding by certain sections of the Local Government Act, specifically those dealing with democracy and one vote having one value.

The committee is responsible for place management services, being services that relate to site presentation, waterways management, safety and security, the marketing and promotion of the Docklands area, the attraction and staging of events in the Docklands area and any other prescribed matters. The area of the Docklands that has not been developed is excluded. This bill only covers the area that has been built on already.

The other thing that Melbourne City Council ratepayers should be concerned about is that they are also going to get a bill for approximately $8.3 million. That is the debt being left behind by VicUrban, and it will have to be picked up by the ratepayers of the City of Melbourne.

An article by Jen Kelly appeared in the *Herald Sun* of 9 August states:

> Ratepayers will be slugged with an unexpected $8.4 million debt when Melbourne City Council regains control over Docklands.

Another article, this time in the *Melbourne Times* of 20 September, is headed 'Docklands democracy a farce, says city council'. Opposition members are not opposing the bill because Melbourne City Council wants to take over the Docklands area and it can see the long-term benefits of doing so. As rates go up over the years there is no doubt that the council will collect more and more revenue. It is predicted that the revenue stream will be approximately $37 million per annum in 10 years time. Although the council is taking on a debt of $8.3 million, in the long term it stands to benefit from increased rate revenue.

As I said, before the 1999 election Labor promised that Docklands would be returned to what it calls democracy, so here we are — seven or eight years later — actually delivering on that promise. I have met with Melbourne City Council and it supports the proposal. The opposition will not oppose the bill.

Hon. P. R. HALL (Gippsland) — The Nationals also will not oppose the City of Melbourne and Docklands Acts (Governance) Bill. In effect the bill amends two acts of Parliament — the City of Melbourne Act 2001 and the Docklands Act 1991 — to return the Docklands area to the municipal district of the city of Melbourne. It also does a number of other things, which I will talk about in just a minute.

This is sensible legislation and, as the Honourable John Vogels says, it is supported by the City of Melbourne. Members of The Nationals are happy for this transfer to take place. As the Honourable John Vogels also said, the previous government intended that this transfer of governance would take place as soon as possible. I can recall the then Minister for Planning, the Honourable Rob Maclellan, suggesting that a review would take place in 2002 to consider the feasibility of transferring responsibility for this area back to the City of Melbourne. I understand that in 2003 the current government conducted a review, the recommendations of which are being implemented by the bill before us.

One thing I cannot help but say is that the government always takes every opportunity to have a whack at the previous government on what it calls democratically elected local government. The third paragraph of the second-reading speech says:

> This commitment was in response to the decision of the previous government in 1998 to excise Docklands from the municipal district of the city of Melbourne.

It then says:

> … it effectively excluded Docklands' residents and ratepayers from participating in democratically elected local government.

I think the facts need to be put on the record. The fact of the matter is that when the Docklands Authority was formed the Docklands area was largely a building and construction site. There were very few residents, if any, and because the area was a building site local government was not needed.

As I have just said, there was a commitment during the time of the previous government to return this area to be part of a democratically elected local government area. I understand that somewhere in the order of 6000 people live in the Docklands area, much development has taken place there and the whole area is becoming a feature of Melbourne. It is appropriate now for that area to be returned to the control of the City of Melbourne, and in large part that is what this enabling bill is doing. I note that major planning decisions are still principally not within the control of the City of Melbourne, and will still be undertaken effectively by VicUrban and the state government. It is a partial return to local government, and we support that. We think that is appropriate and was the intention of the original act. Originally the Docklands Authority was formed to oversee the development of the area, and in large part that has been achieved. There is still a lot of work to do but that process is now well advanced.

The other thing the bill does is to establish the Docklands Co-ordination Committee, a committee of up to seven members, three of whom are to be nominated by the council and three of whom are to be nominated by VicUrban. That is an important aspect of this legislation. The coordination committee will be able to provide the City of Melbourne and the Victorian government with advice on matters of importance in relation to the Docklands area.

We in The Nationals look forward to further development in the Docklands area. Thinking back 10 years you realise that the area has changed significantly within that period of time. It is becoming a real feature of the city of Melbourne, and every time I drive past there is something new to look at. That is healthy for the development of both the city and the state. It is sensible legislation for which The Nationals are prepared this morning to indicate their support.

Ms ROMANES (Melbourne) — I am pleased to have the opportunity to speak on the City of Melbourne and Docklands Acts (Governance) Bill. The bill puts into effect the recent agreement between the state government and the City of Melbourne to transfer Docklands back into the municipality of Melbourne and to restore local democracy and representation to people who live and work there. The agreement includes the issues of timing; the repayment of an accumulated municipal debt; a governance structure to monitor the ongoing place management at Docklands, which was previously under the aegis of VicUrban and before that the Docklands Authority; and the transfer of land that is currently in the name of VicUrban to the Crown for public purposes, with the appointment of the City of Melbourne as a committee of management.

Previous speakers have raised various aspects of the history of the Docklands area in Melbourne going back to 1991, when, under the Kirner government, the Docklands Authority was established to manage the long-term redevelopment of the Melbourne Docklands as a world-class residential, tourism, commercial, inner urban precinct. In 1998 the Kennett government legislated to separate the Docklands area from the city of Melbourne and to give the then Docklands Authority municipal responsibilities. That was something very new at the time — —

Hon. D. McL. Davis — You promised to bring it under democratic control, but you are not doing that. Who has the majority on that committee?

Ms ROMANES — In response to Mr David Davis and other comments that have been made about whether or not the separation did or did not represent a loss of local democracy, we have to remember that the context of this was that the Kennett government progressively from that point on went on to sack local councils right across the state, including the Melbourne City Council and councils in other major cities like Geelong, Bendigo and Ballarat. In 1998 the legislation of the former Kennett coalition government excluded a growing number of ratepayers from representation through a local government body in the area, but it did not stop it from contracting some services from the City of Melbourne, which of course was well placed to provide those services into the area as it had for 150 years or so previously.

The Kennett legislation deprived the Docklands of the oversight of an experienced local government, and I have said this in the house on a previous occasion. The City of Melbourne has considerable expertise and knowledge in strategic planning, design and the provision of social infrastructure services as well as providing physical infrastructure. The Docklands area was deprived of City of Melbourne input at that high level as a result. I am not saying that the Docklands has not emerged as a vital and successful precinct in

Melbourne. As speakers in the other place have commented, both sides of the house can take credit for the commitment to develop Docklands as a key part of the overall development of Melbourne over the last decade. My point is that we might have done even better there with more help from the City of Melbourne. With the procedure for the sale of precincts, precinct by precinct, there are some key issues — for example, the proper provision of community facilities is still unresolved in many areas of the Docklands.

In 2002 an interdepartmental committee was set up to look at Docklands and adjacent areas and consult with relevant local councils about its future in terms of its governance and functions. The advice of that interdepartmental committee was that the long-term governance of the Docklands and adjacent areas move back to local democratic control to give effect to the Bracks government's first-term election platform which gave that commitment.

In May 2003 the interdepartmental committee recommended, among other things, that the Docklands municipal functions and services be restored to the City of Melbourne. The government accepted that recommendation and decided that that transfer back to the City of Melbourne should occur and that the transition definitely needed to occur before the Melbourne City Council elections scheduled for November 2008. The bill before the house provides that the transition of that governance to the City of Melbourne take effect by 1 July 2007 with a default date of 1 January 2008 to make sure that there is plenty of time before the November 2008 elections.

One of the issues that the state government and the City of Melbourne had to reach agreement on before proceeding with this legislative change was the repayment of the accumulated municipal deficit. That deficit has accumulated because of the heavy upfront infrastructure and development costs at Docklands. Up until now, even though 6000 people now reside there and some significant commercial development has taken place, it is still relatively small compared with what the overall size and scope of Docklands will be in a few years time, so a small number of ratepayers shoulder quite a heavy rate burden.

The revenue stream is set to increase steadily from the current $8.3 million per annum to $37.3 million per annum over the next 10 years as a result of population increase and commercial developments, including the one we learnt about over the last week — namely, the ANZ's decision to consolidate its headquarters at Docklands — and that will provide a good base for the City of Melbourne to pay that deficit back to the state and a good income for future infrastructure and other development work at Docklands.

One of the elements that has been raised as a controversial aspect of the bill is the creation of a Docklands Co-ordination Committee, which governance will be put in place through the passage of the legislation.

The bill provides for a special committee of council. That is not all that new because special committees which have powers of council delegated to them are a feature of section 86 of the Local Government Act. This bill provides for a special committee of Melbourne City Council to be set up to oversight the ongoing place management activities at Docklands. It would have three members nominated by council and three members nominated by VicUrban.

What has to be made clear — and I do not think it has been up until this point — is that the bill provides for the possible appointment by the Minister for Local Government and the Minister for Major Projects of an independent chair in the event of a deadlock in the partnership of the council and VicUrban, which is the current authority there. An independent chair could play a role in moving things forward. But there is nothing in the legislation to stop VicUrban and the Melbourne City Council seeking to resolve disputes in other ways or to them forming a protocol and collaborating to go forward together as an active and vital partnership.

The Docklands functions are outlined under new section 27J. They are to approve any place management plan or any finance and infrastructure plan prepared for the coordination area. That is the key area of the Docklands in accordance with the regulation. Their functions are also to provide advice, guidance and recommendations to council about the provision of place management services.

The delegation of the monitoring of place management to the coordination committee provides a very important role for that committee. By appointing VicUrban members to that committee it is acknowledging and recognising VicUrban's legitimate and continuing interest in the standard and quality of place management services and infrastructure planning by council in the coordination area, which is vital to the ongoing development and promotion of Docklands.

We have had for a number of years the oversight of development at the docklands by the Docklands Authority, which was replaced a few years ago by VicUrban, and which is now being replaced by a

coordination committee under the delegation of the City of Melbourne. Therein lies the continuity between the governance of the past to what will be the governance of the future, and the responsibility of that committee back to the City of Melbourne.

One of the important legacies of the Docklands development is the integrated approach we have seen there to planning and design, to infrastructure provision and to the development of the precinct as a whole. Whereas the community development part of that mix is something that the Docklands Authority and VicUrban have tried hard to develop also alongside the physical redevelopment, there have been mixed results in that regard.

I mentioned earlier the problem of not having commitments from the individual owners of precincts to certain community infrastructure, but there have been significant efforts by the Docklands Authority and VicUrban to build a strong community at the same time as redeveloping the area in a physical sense.

I think we are learning the lessons from the Docklands as to how effective place management of particular precincts or areas can be, and those lessons are being transferred to other project areas like transit cities and activity centres and housing redevelopments such as the one at Kensington, where we have also developed a place management approach to a project that involves not only a physical rebuild of housing but also rebuilding of the community. That is a project that I have been involved in on behalf of the Minister for Housing for the last six and half years, and again it is one that employs that place management approach to effective ends.

This is an important bill. It brings the future of the Docklands under the control and guidance of the City of Melbourne. It does it through a coordination committee with delegated powers to try to keep that interest, to monitor very closely what is happening there and guide what will happen in future. With those words I commend the bill to the house.

Hon. D. McL. DAVIS (East Yarra) — I am pleased to make a contribution to the City of Melbourne and Docklands Acts (Governance) Bill but in doing so indicate that this bill is a sham. It is a joke. The reality is that this government promised to return to local government — that is, the City of Melbourne — authority over the Docklands. Whether we think that is a good idea or not, that was the promise that this government made in 1999, and I quote directly from its policy:

> Labor will … bring the Docklands precinct under the control of democratically elected local government.

This bill does nothing of the sort. It sets up a sham committee, a dodgy committee — a committee that is nothing better than a fig leaf trying to cover up the fact that the government has not kept its promise.

Ms Romanes, who was a Labor candidate in 1999 and who no doubt went around with the mantra of returning power to local government, has broken her promise. This is not going to be controlled by local government. That Orwellianly named committee, the Docklands Co-ordination Committee — what a slippery little title that is — will consist of 3 members from the council, 3 from Docklands and 1, in a deadlock approach, appointed jointly by the Minister for Planning and the Minister for Local Government. All I can say is that we know where the power lies. We know that the weight of numbers counts four to three. Of course there will be things that the committee will agree on, but there will be things that it will disagree on, and the reality is that in the end the coordination committee will be a creature of the state government.

The state government still has its hooks in Docklands. Whether we think that is a good idea or a bad idea is a point for debate, but what is not a point for debate is that the Docklands will not be controlled by the City of Melbourne, and that was the state Labor opposition's promise in 1999 — that is, that it would return this to local government. I would not be very surprised at all if a campaign started to build in the Melbourne electorate as people start to get very angry — —

Ms Romanes — I don't think we have got time for it, Mr Davis.

Hon. D. McL. DAVIS — I have to say I have spoken to people, and a number are very unhappy. A number of the Greens are very unhappy about the way this has occurred. I know that many in the local community would have preferred to see Docklands controlled by the Melbourne City Council. That is a point for debate, but what is not a point for debate is that this is not a Melbourne City Council-controlled area now, it is controlled by the state government through a predominance of numbers on the coordination committee comprising representatives of its instrumentality, VicUrban, and a person who will be appointed from time to time as required by the Minister for Planning and the Minister for Local Government jointly to resolve deadlocks.

I also draw the attention of the house to the slipperiness that went on in the drafting process. The Minister for Local Government will be very familiar with this

because she was the architect of it. I want to read into *Hansard* some letters and extracts from documents which make it very clear that the process that was gone through in consultation with the City of Melbourne was not up to scratch. It was a slippery little process — a process in which the government bound the council officers to secrecy in the series of discussions that occurred. It would not allow the officers to consult with the lord mayor or with councillors. In fact, the council officers were held in a secret arrangement so that they could not go out and consult the community more broadly.

If Ms Romanes would like me to read this, I will. I have here a memorandum dated 12 September 2006 from the City of Melbourne signed by David Pitchford, the chief executive. It is interesting that it lays out that the government was in discussion with the officers at the City of Melbourne for some time back to January and perhaps earlier. He said:

> While I was prepared to facilitate subsequent reviews of the draft legislation I also made it abundantly clear to the state government that any comments must not be interpreted as the position of council, a point that was made clear in the letter on 23 March.

On 23 March he wrote to the Minister for Local Government, and I will come to that letter in a minute. He went on:

> Subsequently, City of Melbourne officers received and reviewed a total of five drafts of the proposed bill. It is important to note that there are no significant variations between the drafts, the final bill and the original drafting instructions. Indeed the issues raised by the City of Melbourne in the January submission were the only points of contention. The slight differences in the various drafts relate to process matters which were requested by the City of Melbourne, for example, the sections in the bill relating to leases and the requirement that VicUrban disclose information to the City of Melbourne regarding those leases.
>
> Thirdly, City of Melbourne did not receive a final copy of the … bill prior to its introduction to the Victorian Parliament.

Further he pointed out:

> Given that I did not receive a response to my letter of 23 March 2006, I again wrote to the Office of Local Government reiterating my frustration with this process and requesting again that councillors be briefed on the draft bill as soon as the restrictions placed on the bill as a cabinet-in-confidence document is lifted. This letter dated 14 August 2006 is also attached.
>
> It is therefore with considerable dismay and indeed surprise that I find, according to Minister Broad's letter, that, 'Cabinet expressly approved consultation with VicUrban and the Melbourne City Council during the drafting of the bill'.
>
> I am compelled to assure councillors that I was expressly told that drafts of the bill were provided to the City of Melbourne officers on a strictly confidential basis and only for the purposes of ensuring that the technical aspects of the legislation were accurate.

He went on to say:

> My frustration with this process and its implications for councillors are clearly articulated in the attached correspondence to the office of Local Government Victoria.
>
> I have again demanded an explanation from Local Government Victoria and indeed a response to my letters in which I raise the process issue.

The letter of 23 March that David Pitchford wrote to Prue Digby, the executive director of Local Government Victoria, is interesting. It says in part:

> … we appreciate the opportunity to have been consulted in the finalisation of this draft bill, Local Government Victoria has at all times stressed the cabinet-in-confidence nature of the documents supplied to date. We have respected this limitation, however, it is important that you understand that in so doing, we have been constrained from briefing councillors on the proposed legislation as the only avenue for doing so is at a committee meeting in the first instance, and subsequently to council …

This is secret government. This is government where there is not proper and reasonable community consultation.

The minister's slippery response, dated 11 September, was received at the Lord Mayor's office on the same date. It states:

> It is the government's expectation that the DCC will operate cooperatively and productively with equal numbers from Melbourne City Council and VicUrban. In the unlikely event that DCC is unable to make decisions, the ministers will appoint an independent chair. It is the ministers' intention to make such an appointment in consultation with Melbourne City Council and VicUrban.

The truth is that those chairpersons will be lackeys of the government — that is, its mates. You only need to think about VicUrban and its history with mates being appointed to it and its predecessor bodies. Jim Reeves, the Premier's mate, was a key person. The government has form and record with that authority.

The government has tried to create a smokescreen around the City of Melbourne to try to make it appear democracy is being returned. This is not democracy, this is sham democracy — this is a joke! If you believe in democracy, you have elected officials who run things; you do not have a sham committee where the government has a 4 to 3 majority on every contentious vote. It is clear that on every vote it can have its mates overrule the elected officials.

Ms Romanes should know better. You supported areas in the city of Melbourne in the lead-up to the 1999 election.

The ACTING PRESIDENT (Hon. J. G. Hilton) — Order! Mr Davis will address the Chair.

Hon. D. McL. DAVIS — You should hang your head in shame. Where was the Minister for Health in the other place, Bronwyn Pike, the member for Melbourne, on this? She should have but was not prepared to stand up for democracy in her electorate. Where have the local upper house members been on this, Ms Romanes? You should have been active in fighting for your local community.

The ACTING PRESIDENT (Hon. J. G. Hilton) — Order! Mr Davis will address his comments through the Chair.

Hon. D. McL. DAVIS — The reality is that this bill is a sham. Whether it should be with Docklands or the City of Melbourne, and there are legitimate debates around that — —

Ms Romanes — Are you going to vote for it?

Hon. D. McL. DAVIS — We will not oppose the bill because the government is there to govern — so we will let it govern. The government will still have control either way, whether we oppose or support the legislation. The government will use its numbers and crunch the legislation through this place. The truth is that the government will still control the Docklands Co-ordination Committee through its weighted numbers of four to three, and the City of Melbourne will not control it in any event.

My purpose today is to bring to the attention of the Legislative Council and the community this slippery cover-up. The government has bound the council offices through what should have been but was not a legitimate and realistic consultation process. There was no consultation with councillors or elected officials, who Ms Romanes said would be reinstated. You and your opposition at the time promised to reinstate local government in the City of Melbourne, but you are not doing it in the Docklands precinct, Ms Romanes. I defy you to go out and argue at a public meeting that this is how local government operates.

An Orwellian title like the Docklands Co-ordination Committee is a slippery little name. The government is trying to give the impression that this is all about a nice smoothing over. This authority, which has a government majority of four to three, will control Docklands. That means your government controls it, Ms Romanes. It means your government is responsible, and it means it has not been given to local government as promised.

The ACTING PRESIDENT (Hon. J. G. Hilton) — Order! For the third time, Mr Davis will address the Chair.

Hon. D. McL. DAVIS — Of course, Acting President. The hypocrisy shown by the government clearly gets me very agitated. The truth of the matter is that on the one hand, this government utters a lot of high-sounding rhetoric but on the other hand, it does not deliver on that rhetoric.

Recently I attended a rally just outside the office of the member for Richmond in the other place. The community is very agitated about the development the Salter Group is proposing near the Burnley Gardens, on the old fire site at the corner of Walmer Street. Whatever you think about the development, the government said it would deal with these issues. Melbourne 2030 is allowing massive developments. Whatever you think about the Salter Group, it has a legitimate right to put forward its proposals under the law of the land as it is at the moment — that is, Melbourne 2030 — which gives legal effect to high-rise, high-density development in electorates like Richmond and Melbourne where people generally do not want that kind of development.

It was interesting to see the group assembled outside the member for Richmond's office on a Saturday morning just a couple of weeks ago. It was quite a large group of people who were quite angry. Richard Wynne, the member for Richmond in the other place, has been using smooth-sounding rhetoric, saying, 'I am trying to fight. I am trying to do this'. I can tell you what he could do. He could go to the government and get Melbourne 2030 revoked. He could get 2030 dealt with. He has the power to stand up to Minister Hulls, the Minister for Planning in the other place, and the Premier, and to deal with that. He and other Labor backbenchers, who have not got the guts or fortitude to stand up to the Premier — —

Ms Romanes interjected.

Hon. D. McL. DAVIS — They do not have the fortitude to stand up to the Premier and the Minister for Planning and to say, 'We want 2030 dealt with. We want it withdrawn. We want protections for our local communities'. The truth is of course that developments like that, that are going to impose on the Yarra — —

Ms Romanes — Do you want urban sprawl?

Hon. D. McL. DAVIS — Do you support the development? It is in Ms Romanes's electorate. Where were you — —

Ms Romanes interjected.

Hon. D. McL. DAVIS — Through the Chair I will tell Ms Romanes what I would do on that site. I would protect the Yarra River instead of allowing the development to encroach onto the side of the river in a way that is going to impinge on the parkland there. Ms Romanes's government has impinged on parkland all across the city of Melbourne and the city of Yarra. Look at it!

Ms Romanes interjected.

Hon. D. McL. DAVIS — Nobody thinks that in the Melbourne electorate. The member should talk to Julianne Bell and the Protectors of Public Lands. They do not think the government has protected public land. They think it has encroached time and again on public land. That development on the side of the river is going to be a large tower which will impose on the parkland and which will drive people in that area to fight hard against Richard Wynne and the Labor government. Many people I spoke to at that rally are very angry with Richard Wynne, and they are very angry with Ms Romanes. I want to know why Ms Romanes was not at that meeting. We need a system where communities are protected, and this bill does not — —

The ACTING PRESIDENT (Hon. J. G. Hilton) — Order! The member's time has expired.

Motion agreed to.

Read second time.

Third reading

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

> That the bill be now read a third time.

In doing so I thank members for their support for this bill, which will return the Docklands area to the City of Melbourne and to democratically elected local government in time for residents and ratepayers to participate in the 2008 Victorian local government elections. I look forward to a productive working relationship between the council and VicUrban in the future development and management of Docklands, as I know the lord mayor does as well.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

CONVEYANCERS BILL

Second reading

Debate resumed from 14 September; motion of Ms THOMSON (Minister for Consumer Affairs).

Hon. W. A. LOVELL (North Eastern) — It is a pleasure to rise and speak on this bill. This bill has long been expected in the Parliament. It was a long time coming, and because it was a long time coming many Victorians suffered significant losses through the collapse of Grove Conveyancing Services. I guess it was the collapse of Grove Conveyancing that prompted the government to move forward on this bill. It initiated an inquiry, carried out by the Allen Consulting Group, into conveyancing in Victoria and the regulation of conveyancing. The Victorian division of the Australian Institute of Conveyancers has been calling for regulation of the industry for the last 10 years.

I refer to an article in the *Herald Sun* of 8 November 2004 entitled 'Calling for regulation'. It reads:

> The collapse of Grove Conveyancing Services is an example of just what can happen when a government refuses to regulate a profession.
>
> The Australian Institute of Conveyancers Victorian division has been calling on government to regulate the industry for the past 10 years.
>
> Unfortunately for the victims of Grove Conveyancing, we have been unsuccessful.
>
> Attorney-General Hulls now needs to urgently review the industry or rethink his policy as it affects the industry in this state.
>
> The government cannot continue to ignore lack of regulation. Perhaps a catalyst for change would be for the victims of Grove Conveyancing to seek compensation directly from the Attorney-General on the basis that the government owed them a 'duty of care'.
>
> The public should be aware that conveyancers who are members of our institute comply with a code of conduct and hold professional indemnity insurance.

I thank both the president of the Australian Institute of Conveyancers, Pauline Barrow, and the chief executive officer, Jillian Ludwell, for the time they spent with me consulting on this bill. I also thank the Real Estate Institute of Victoria, as well as the Law Institute of Victoria and the Consumer Law Centre Victoria, for

lending us their expertise in consultation on this bill. I also thank Andrew McIntosh, the member for Kew in the other place, who has been an advocate for the regulation of the conveyancing industry in this state, for the time he spent with me consulting on the bill.

Property law is a relatively complex area of the law. My friends who have studied law have told me it was not one of their favourite subjects. The transfer of land is certainly a very complex thing, but it has been simplified through the Torrens system, which was adopted from the South Australian model and is used throughout Australia. The Torrens system allows the registering on a title of an interest in land to be a more simple process than when it is done under the general law.

The biggest difference between South Australia and Victoria in the area of land transfer is that from the outset South Australia adopted specialist conveyancers, who were not necessarily legal practitioners but who had specialist training in conveyancing and who were allowed to practise alongside legal practitioners. Unlike South Australia, Victoria effectively gave the legal profession a monopoly in the conveyancing of land by providing that only a legal practitioner could perform the legal work involved. A de facto arrangement arose in Victoria whereby conveyancers would enter into an agreement with legal practitioners for conveyancers to prepare all the work and for legal practitioners to sign off on it. That system has not provided a satisfactory form of consumer protection.

This bill will provide for the regulation of conveyancing work carried out by persons other than legal practitioners, which will enable conveyancers to do that work. It will also repeal part 7.1 of the Legal Profession Act and make consequential amendments to the Business Licensing Authority Act 1998, the Estate Agents Act 1980, the Fair Trading Act 1999, the Property Law Act 1958 and the Sale of Land Act 1962. The bill will set up a licensing regime for conveyancers who are not legal practitioners and will allow them to undertake the legal work associated with property transactions. It will also require conveyancers to have completed a course or examination in the prescribed competencies conducted by an approved registered education and training organisation. I am advised that those courses already exist in Victoria. The bill will also require conveyancers to have had at least 12 months full-time or equivalent part-time experience in the industry.

The bill will require conveyancers to hold professional indemnity insurance. A ministerial order will prescribe the minimum level of cover for that insurance. I am told that the Australian Institute of Conveyancers currently requires its members to have up to $1 million in professional indemnity insurance.

The bill will also require conveyancers to disclose to clients all costs and commissions they receive and will require them to actively supervise their conveyancing business. Conveyancers will have to be actively involved in the day-to-day running of the conveyancing business. They will not be able to just set up a business and allow others to run it. I think it is a good requirement that the person who holds the licence for the business will be required to be involved in its day-to-day operations.

It will also require conveyancers to hold all moneys in a trust account. These trust accounts must be audited annually. Any interest from these trust accounts and any money that comes in from licensing fees will be paid into the Victorian Property Fund. Trust accounts are quite complex to run. They have to be audited and they are very strictly monitored. These provisions will provide some certainty to consumers in Victoria that their money is being held appropriately in their interest. The customers of Grove Conveyancing Services did not have the protection of a trust account and we saw the collapse of that company affect up to 400 Victorian families. It is estimated that between $6 million and $9 million was lost as a result of the collapse of that company.

The bill will also make it clear that conveyancers will be prohibited from undertaking legal work other than the legal work involved in the transfer of property. It makes provision for professional conduct rules to be prescribed through regulations. However, once again, we will not know what those professional conduct rules are until the regulations are set. This is enabling legislation. We seem to have far too much enabling legislation coming through this house. It would be nice to see those regulations developed in conjunction with the bill so we could actually know what the entire model looked like when we debated it in the house.

The bill also provides that the Business Licensing Authority must establish and maintain a register of licensed conveyancers. It provides that consumers who lose money because of the fraudulent conduct of a conveyancer will have the right to make a claim for compensation through the Victorian Property Fund. That is why the licensing fees and the interest from the trust accounts will be paid into that fund.

The bill provides that a person cannot act as a conveyancer in a situation where there is a conflict of interest. It prohibits a real estate agent from acting as

both the real estate agent and the conveyancer in a transaction. However, it also deals with other areas where there are conflicts of interest.

The bill sets out details for enforcement of the act. It applies the sections of the Fair Trading Act relating to inspection powers, remedies and legal proceedings to this act. It provides for transitional arrangements to allow a current conveyancer who has not completed the necessary qualifications to apply for a provisional licence. This will limit them to work allowed under the old Legal Profession Act regime until they complete their qualifications. This clause has a sunset provision so they will have five years in which to do that.

I would like to raise a few concerns with the legislation. The bill creates an anomaly in section 53A of the Estate Agents Act. That section currently allows estate agents to fill out:

> (a) a standard form of contract permitted by the regulations or approved by the Legal Services Board or a professional association (within the meaning of the Legal Profession Act 2004); or
>
> (b) a contract prepared by an Australian legal practitioner …

This means if a contract is made out, the estate agent can fill the details in and the conveyancing can go forward. However, this bill does not amend section 53A of the Estate Agents Act to allow a real estate agent to fill up a contract which has been prepared by a licensed conveyancer, even though it allows a licensed conveyancer to prepare such a form. That anomaly will need to be addressed. Hopefully it can be addressed before the bill is enacted so real estate agents are not put in the awkward position of acting outside the law as it pertains to them.

The Victorian division of the Australian Institute of Conveyancers is very concerned about the 12 months experience required to apply for a licence. It does not feel this is long enough. It feels a longer period is needed. It believes a minimum of five years experience should be needed before someone can apply for a full licence.

One last thing I would like to raise is my concern that the bill does not require licensees to institute a complaints-handling procedure. I would have thought provision for a complaints-handling procedure would have been included in the bill.

In closing I would like to say that this bill has been a long time coming. Although there are a couple of problems with it, the Liberal Party will not hold up passage of the bill. We believe it needs to go through. We hope the government, or the Liberal Party in government after November, will address the issues in the bill, and do so before it is enacted. We support the bill.

Sitting suspended 1.05 p.m. until 2.06 p.m.

Business interrupted pursuant to sessional orders.

QUESTIONS WITHOUT NOTICE

Building industry: warranty insurance

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — My question is to the Minister for Finance. I refer to the claim by the minister's office that the introduction of a Queensland-style first-resort builders warranty insurance scheme would plunge the budget into deficit. Given the latest financial report highlighting a budget surplus of $825 million, can the minister provide the house with any data to support his absurd claim?

Mr LENDERS (Minister for Finance) — I am delighted that Mr Rich-Phillips has asked the question. It is interesting that he does not ask builders warranty questions anywhere near as eloquently or with any of the incisiveness of Mr Strong. I pay tribute to Mr Strong for understanding the subject. I say to Mr Rich-Phillips that he should not be overly concerned at a short *Herald Sun* article that reported only part of a comment from my spokesperson regarding the consequences of the Liberal policy on a Queensland scheme. I am quite happy to go through the context. Let us just paint the picture here.

We had a builders warranty insurance system that failed. Back in February 2002 it had failed. The Housing Industry Association and the Master Builders Association of Victoria said that if the government did not act, there would be no builders warranty insurance forthwith. The government came up with a 10-point plan in conjunction with the state of New South Wales and moved forward. The finance minister, the consumer affairs minister and the planning minister, walking in step, came forward with a 10-point plan, which was agreed to with New South Wales and which has gone forward. Since then we have seen a number of insurers come to the market, and we have seen the market move forward. Builders warranty insurance is available again, and the price has come down.

However, President, there are a number of people who still have grievances with the system. They are things that the government will work on. In response to the particular issue raised by Mr Rich-Phillips, the context of the quote was to set up a builders warranty scheme in Victoria. If we were to go to the Queensland model that

Mr Rich-Phillips presumably is alluding to, you firstly would need to provide capital to set up the scheme. You would need probably $20 million, $30 million or $40 million out of the budget.

Secondly, if this is to be the nirvana which the Liberal Party seems to want to make it be — that is, cheaper than everything else — the chances are you would have to subsidise the scheme. I that context that would be yet another example where money grows on trees in Baillieu land and where you promise different things to different people, everything to everybody with absolutely no discipline, whether it be what is done with roads or what is done with health services. The opposition says it is not going to cut public services but will cut taxes — which is code for slashing public services.

Already we have seen a number of things coming out of Baillieu land, where money grows on trees. This government has put in 7200 nurses but the Liberal government, when the Leader of the Opposition in the other place, Ted Baillieu, was president of the Liberal Party, had cut that number by 3500. The Bracks government put in 6200 teachers, but the Kennett government had cut 9000 teachers. The Bracks government has built primary class sizes to 22.4 students, but the Kennett government had them at 25.4. The context of the *Herald Sun* article that Mr Rich-Phillips was referring to was one of dozens of claims by the Liberal Party about what it will spend money on.

They go around the state, and in one part of the state they say quietly, 'We will give you this service; we will build this bridge, road or hospital'; but in another part of the state they say, 'We will cut services so we can cut taxes'. They say they will cut land tax and payroll tax, that they will reduce WorkCover levies and TAC levies. They say they will do all these things. In Baillieu land, where money grows on trees, they are all things to all people. Mr Rich-Phillips is barely quoting a portion of the response which is similar to the response that I make now.

The Bracks government has made Victoria a better place to live, work and raise a family. It has kept the budget in the black, and the opposition is envious.

Supplementary question

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — I note the minister's response was that his spokesman was quoted out of context in the *Herald Sun*, but unfortunately for the minister his spokesman put the response in writing. The full email is in circulation, and there is no doubt that the minister's spokesman indicated that such a scheme, and only such a scheme, would plunge the budget into deficit. Try as he might to cover up for what his spokesman said, it is in writing and in circulation.

I ask the minister: given that the Queensland Building Services Authority runs an effective and efficient first resort builders warranty insurance scheme, why does the government believe that the Department of Treasury and Finance is incapable of establishing a similar scheme for Victoria?

Mr LENDERS (Minister for Finance) — Firstly, my spokesperson is not a man but leaving that aside, I would happily at any time have a debate about builders warranty insurance with Mr Rich-Phillips. The one thing I find puzzling is that this is again all things to all people; this is the party that goes on to the steps of Parliament House and talks about a state-funded insurance scheme and then it goes out to business organisations and talks about a scheme with lower regulation. He talks about the Queensland scheme versus the Victorian scheme, so in one audience he says, 'More regulation' because he thinks he will get a clap, while in another audience he says, 'Less regulation' because he thinks it will get him a clap.

If Mr Rich-Phillips wants to delve into the Queensland scheme, I am happy to have a discussion with him head-on-head as to the models but we in this state do not believe in swinging from system to system. There are thousands of builders and thousands of consumers out there but we do not want to change the laws on them every day because Mr Rich-Phillips has a whim. Let us have a debate but let us debate some facts.

WorkCover: performance

Mr SOMYUREK (Eumemmerring) — My question is to the Minister for WorkCover and the TAC. Will the minister advise the house of any recent proposals that will improve workplace safety and cut red tape?

Mr LENDERS (Minister for WorkCover and the TAC) — I thank Mr Somyurek for his question and for his interest in how you can do exactly what he said — both improve the WorkCover scheme and cut red tape. The Bracks government does not seek to be all things to all people. What the Bracks government seeks to do — —

Hon. B. N. Atkinson interjected.

Mr LENDERS — Mr Atkinson scoffs. I am glad he is paying attention, because what the Bracks government has sought to do in its seven years in office

is to first identify problems in the state with the community and then — and this is where the government is remarkably different from those opposite — to find solutions to problems.

Hon. Bill Forwood — Get out of it!

Mr LENDERS — Mr Forwood has now joined the peanut gallery. He is excited. Let me say this about WorkCover: problem solution. When the Bracks government came to power the problem this state had was that industrial injuries were going up, WorkCover premiums were going up and confidence in the system was going down. The only solution Mr Forwood's people had was, one, to artificially cut premiums to put the scheme in the red and, two, to slash the rights of injured workers by getting rid of common-law claims.

Now we have a good scheme where for three years in a row there has been a 10 per cent cut in premiums. We have gone from 2.22 per cent of average wages to 1.62 per cent, and we have seen injuries coming down in workplaces, which is why that cut has happened. This goes to Mr Somyurek's question. Last year in the state of Victoria the number of injuries reported in workplaces dropped by 4.4 per cent at a time of strong economic and employment growth. You can of course cut premiums if workplaces become safer.

Returning to the issue of problem solution, the commonwealth through the absolutely obsessive antics of Kevin Andrews, the federal Minister for Employment and Workplace Relations, is determined to break open the WorkCover scheme and let companies go to Comcare. I have previously informed members of the house of what that would mean. Referring to areas in Mr Forwood's electorate of Templestowe Province such as Ivanhoe and Heidelberg, or any of the areas Ms Argondizzo represents so well, it would mean that when a Linfox truck approached a Coles or Myer store we would find there would be two occupational health and safety regimes operating. A branch of the National Australia Bank in Bairnsdale would have a different occupational health and safety scheme from the next bank.

What we have is a problem solution. I said to Minister Andrews at the workplace relations ministerial council last Friday, 'You go down your obsessive path of having this Comcare system, but let us have a standard occupational health and safety regime so that WorkCover inspectors can actually then go on to any site and put in place the same occupational health and safety standards'. We have done that; I put that proposal forward. President, do you know what Mr Andrews said? He said, 'We will get officials to look at it'. Victoria has seen industrial accidents come down, industrial deaths come down and WorkCover premiums come down. Rather than have Mr Andrews looking at it — that is, the state of Victoria — and seeing a system that works, he has agreed to get another group of commonwealth public servants to have another series of meetings to look at it.

The Bracks government has got on with the job of making Victoria a better place to live, to work, to raise a family and of making our workplaces safer. I call upon the commonwealth government and Minister Andrews to come and look at Victoria, see a system working, talk to employers, talk to employees and get with the strength rather than setting up another committee to look at these issues.

Energy: renewable sources

Hon. BILL FORWOOD (Templestowe) — My question without notice is to the Minister for Energy Industries. Page 12 of the McLennan Magasanik Associates report, which the government is using to try to justify its Victorian renewable energy target scheme, says that the scheme as designed will only reduce brown coal usage by 1.3 per cent.

Mr Smith — It's significant.

Hon. BILL FORWOOD — Yes, it is 1.3 per cent!

I ask: what value-for-money analysis, if any, did the government do before it decided to grab nearly $3 billion from Victorian consumers in order to reduce brown coal usage by such a paltry amount?

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — I thank the honourable member for his question. I hope it is not the last question I receive from him before the end of the parliamentary session, because I have of course enjoyed the interaction I have had over the years with the honourable member about the subject area of his shadow portfolio.

I know that deep down he supports renewable energy. I am hoping that when he leaves Parliament and takes up his position with CPR — or wherever it is that he is going to go looking for a job in the energy sector — and he starts to see the light, he will then become educated and be able to ask me some sensible questions as a result. The fact of the matter is that the Victorian renewable energy target (VRET) scheme is going to save millions of tonnes of carbon dioxide that would otherwise finish up in the atmosphere. That is the reality of it.

At a time when Victoria's proportion of total energy consumption through renewable energy is sitting at a paltry 4 per cent, the rest of the world is in the double figures. There are countries that are trying to get to 20 per cent of renewable energy. Here we are sitting at 4 per cent and so the government set a reasonable target of trying to achieve 10 per cent of renewable energy by 2016, which has been acclaimed universally in the industry. Companies like AGL have come out and said that it is a positive initiative by the Bracks Labor government.

Honourable members interjecting.

Hon. T. C. THEOPHANOUS — Let me quote, since members opposite want me to do so. Mr Anthony from AGL said:

> AGL is encouraged by the Bracks government's sensible approach to the development of a renewable energy industry in Victoria. The VRET scheme has been factored into our decision to proceed with the Bogong development …

That is one example. Remember that AGL owns 32.5 per cent of our biggest brown coal generator in the Latrobe Valley — it owns 32.5 per cent of Loy Yang power station. AGL has been prepared to come out and say, notwithstanding the fact that it has brown coal interests, it believes it is the right thing to do to have a renewable energy policy as well. I congratulate AGL for that, and I congratulate its chief executive officer for the statements he has made.

This is an important debate. We have an important point of difference with the opposition. We are happy to go to the election on this important point of difference. The opposition wants to kill the renewable energy industry in this state. It will not support VRET; it is committed to dismantling it. We on this side of the house are proud of the fact that we are going to create 2200 jobs in regional Victoria, that we are going to reduce greenhouse gases and that at the same time we are going to do the right thing for our children for the future.

Supplementary question

Hon. BILL FORWOOD (Templestowe) — I too am going to miss the arguments with Mr Theophanous. I noticed that nowhere in his response did he touch on my question, which dealt with value for money. Will he now admit to the people — —

Mr Lenders — It is question time, not answer time.

Hon. BILL FORWOOD — I pick up the interjection from the Leader of the Government, which shows the contempt that Labor Party ministers have for the process — and the people of Victoria should know that. I ask: since no value-for-money analysis has been done, will the minister now admit that this scheme will cost every man, woman and child in Victoria more than $1 a week in increased electricity prices?

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — I wish Mr Forwood would get his facts straight. It is actually $1 a month. It is not $1 a week and it is not $1 a year — it is $1 a month, and it is what economic modelling has shown will be the cost.

Let me just go to the point that the honourable member is making: this scheme is going to reduce emissions by 27 million tonnes of CO_2 — 27 million tonnes of CO_2 will not go into the atmosphere as a result of this scheme.

Hon. Bill Forwood — What difference will it make?

Hon. T. C. THEOPHANOUS — The member asks what difference it will make. Let me just put it into context for honourable members: it is like closing the Hazelwood power station for almost two years. That is the extent to which this scheme is going to save the people of Victoria and this nation in greenhouse gases.

Aged care: government initiatives

Hon. R. G. MITCHELL (Central Highlands) — My question is to the Minister for Aged Care. Could the minister explain to the house how the Bracks government is investing in aged care services throughout Victoria, including the Central Highlands, to assist in supporting the future needs of our ageing population?

Mr GAVIN JENNINGS (Minister for Aged Care) — I thank Mr Mitchell for his question and his concern about the wellbeing of older members of our community and for providing me with an opportunity to explain today the important role the Bracks government understands it is obliged to play in providing aged care services right throughout the breadth of Victoria.

I am pleased to say that I joined the member's community last week in a fantastic event in Seymour, where we opened a new 30-bed facility at Barrabill House. It involved a $5.1 million contribution by the Bracks government to the total development of that aged care facility situated right next to the hospital in Seymour.

It provides a precinct which will bring together the acute hospital setting, the residential aged care and

importantly, an ambulatory care facility right within the one precinct in the centre of Seymour. It will provide quality care and a range of services to that community now and into the future.

I am very pleased to say that this is one occasion on which I can give some credit to the commonwealth government for its support in relation to the ambulatory care centre because the commonwealth government has, through a program known as Pathways Home, supported the work of the Victorian government to deliver these types of services in an integrated approach that brings together physiotherapy, occupational therapy, diabetes education, dieticians and other important ancillary health activities, together within the one location — —

Hon. Andrea Coote — Are they available for the disabled?

Mr GAVIN JENNINGS — They are organised in a way that is easily accessible for people with disabilities. They will have easy access to these facilities, and indeed we understand the important role they play in terms of rehabilitation — for people who have been in hospital and require some degree of rehabilitation to go back into their community — and in providing a set of services that do follow up people in their homes and in aspects of their community lives.

The opening of Barrabill House in Seymour was not the only service that I opened on that great day last week. In fact I travelled up the highway to Shepparton for a very similar event with Goulburn Valley Health, and I am pleased that the commonwealth made a contribution to that very significant investment — a service of the magnitude of $12 million, which involves not only the range of services that I described for Seymour but also which has an integrated dental care program.

A centre of excellence to be established in Shepparton will see the establishment of 12 dental chairs and will provide an opportunity, in collaboration with the University of Melbourne and the Rural Dental School, for dentists to be trained in that facility. I hope it will encourage students of dental care to stay within regional Victoria.

All members of the community would understand that Victoria has a chronic shortage of dental care, particularly in regional and rural areas, and this service will play a very important role — far beyond the Goulburn Valley itself — and hopefully provide the wherewithal and the training and opportunities for students, once they are trained, to stay within those services throughout Victoria.

The delivery of ambulatory care services and residential aged care services has been a hallmark of the Bracks government, and I have been particularly pleased to be a part of a government that recognises its obligation to provide quality care to older members of the community, regardless of where they live.

Throughout the life of the Bracks government we have seen the redevelopment of 43 facilities, 39 of which are in regional Victoria. The government has spent $396 million in the redevelopment of those facilities, and all of them are fire safe, all of them are accredited and all of them will receive certification by 2008. The Bracks government's commitment to regional Victoria is something of which we can all be proud.

Hazardous waste: Nowingi

Hon. B. W. BISHOP (North Western) — It is probably fitting that my last question without notice in this place is directed to the Minister for Major Projects, Mr Lenders. The minister is on the record in *Hansard* of 14 September as having said that Victoria must store 89 000 tonnes of toxic waste per year. If Hattah-Nowingi is forced through with a capacity of 250 000 tonnes, it will be overfilled in three years. Can the minister inform the house where any future site or sites might be?

Mr LENDERS (Minister for Major Projects) — I know it is not time for valedictories, but I will miss Mr Bishop's questions on this area. He certainly has kept me on my toes in needing to respond to them. He is second only to the member for Mildura in another place, Mr Savage, who has also been pounding me all along on this.

The question that Mr Bishop raises is one that Cr Eddie Warhurst, the mayor of Mildura Rural City Council, has raised with me. Since Parliament last sat I have met with the mayor of Mildura Rural City Council, the mayors of the shires of Buloke, Macedon Ranges, Mount Alexander and Loddon and a councillor representative from the City of Greater Bendigo. They wanted to have a talk about some of these issues, including ferrying category B waste up the Calder Highway, which was one of the things being considered by the environment effects statement panel. Obviously that was one of the transport options the panel is being asked to give its view on. Any discussion of this comes to the issues of waste volume and how the government — and, more to the point, the Victorian community — will deal with it.

This is not my area, but I am happy to speak on it in general terms. On the issue of waste management, my

role as the major projects minister is to be the proponent of the proposed long-term containment facility at Nowingi to deal with category B waste. Obviously I have a particular interest in that aspect of the whole issue of waste reduction. One thing that my colleague in another place the Minister for Environment, John Thwaites, has been very successful at — as have been officers of the Environment Protection Authority and other people who answer to him — bringing down the level of category B waste. When we attained office the amount that was being put into landfill in Lyndhurst and Tullamarine was probably a third as much again as there is now. Some of the new policies, such as increases in landfill levies and other things that have been put in place, will force that down.

I can say with confidence to Mr Bishop that the figure of 89 000 tonnes will be significantly reduced in the near future. We will not get down to the dream level of Mr Baillieu in Baillieu land, where money grows on trees, and being all things to all people, where you can make promises and wave a magic wand to get rid of waste. Presumably Mr David Davis has a magic wand with which he will get rid of all industrial waste. I suggest that he will make a fortune on the international circuit by selling it in Japan, the United States of America, Europe or anywhere else where they dream of such a solution.

I am confident that the level of waste will come down to a lot lower than 89 000 tonnes, but will not get to zero. My role as the Minister for Major Projects is to be the proponent of a world-class facility for the storage of category B waste that is safer than what is happening in France — next to wineries! — and safer than what is happening in other parts of the world. I am confident that this will be achieved.

The issue Mr Bishop has raised is outside my portfolio area, but I can assure him that my role is to be the proponent of a world-class facility. I am confident that we will succeed in bringing down the levels of waste put into landfill. We are not helped by people like Mr Dalla-Riva, the opposition waste watch spokesperson, who mocks and belittles the government for increasing the levy on landfill.

Mr Gavin Jennings interjected.

Mr LENDERS — I take up the comment of my colleague Mr Jennings. It is a case of opposition members being all things to all people. On one side Mr David Davis is saying, 'You have to bring down waste levels', but then his factional colleague Mr Dalla-Riva says, 'Don't put the levy on waste', so we have a split in the Liberal Party cross-bench faction. Opposition members are all things to all people. At least Mr Bishop is consistent. He may have changed his view on landfill in Werribee to what he has now for Sunraysia, but other than that he is consistent. Those opposite are trying to be all things to all people.

The Bracks government will proceed in seeking to deal with the issue of long-term waste management. Unlike members of the Liberal Party, we will not pretend that it will go away. We are happy to deal with it consistently and in a safe manner. I look forward to Mr Bishop's supplementary question.

The PRESIDENT — Order! The Honourable Barry Bishop, on his last supplementary question.

Supplementary question

Hon. B. W. BISHOP (North Western) — You never know, President! Given the minister's answer, my supplementary question is: is it true that an appropriate site on government land has been identified on Kororoit Creek Road, Altona, but that this land is now for immediate sale so the government can continue with its policy of dumping on country Victoria?

Mr LENDERS (Minister for Major Projects) — It is certainly nothing that I am aware of as the minister. Nothing has come across my desk, nor have people communicated it to me in any way, shape or form. I am totally unaware of it. What I say to Mr Bishop, before he goes on with the politics of driving a wedge of difference between country and city, is that the bipartisan Coleman committee, which was chaired by Geoff Coleman, a former coalition minister, established the criteria which this government has followed — —

Hon. B. W. Bishop interjected.

Mr LENDERS — Yes, Mr Bishop, I am denying it, I am unaware of it. The Coleman committee established the criteria to find the safest place in Victoria to store category B waste. Whichever side of the chamber people sit on, we as a community have to come to terms with the fact that you cannot dump it in landfill and you cannot pretend it will go away, you need to deal with it. The Bracks government has had the courage to try to deal with it. It is a problem for the whole state to solve.

Energy: renewable sources

Ms MIKAKOS (Jika Jika) — My question is to the Minister for Energy Industries, the Honourable Theo Theophanous, who is also the Minister for Resources. Can the minister advise the house of recent initiatives the Bracks government has taken to progress Victoria

towards a clean coal future and of the reaction to these initiatives?

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — I am pleased to advise the house that on 21 September, accompanied by the Premier, I signed a mining licence for Monash Energy for a $5 billion project to convert the Latrobe Valley's brown coal into clean synthetic diesel fuel. The Monash Energy project will be the biggest Victorian resource development in at least 25 years and will produce 60 000 barrels of diesel per day. At the same ceremony we were pleased to be able to welcome Anglo American and Shell Gas and Power to Victoria for the signing of this important joint development agreement between those two huge companies to make this project work.

The importance of this project should not be underestimated. It involves a number of firsts. It is the first major project in the Latrobe Valley that does not have power generation as its centrepiece, and it is the first major project in the world to propose commercial-scale carbon capture and storage (CCS) of the emissions from brown coal.

As part of the licence, Monash Energy and the government have agreed to a series of investment and commissioning milestones that must be met to progress the project. This project, which will go ahead subject to the milestones being met, has been negotiated between the government and these very large companies. Without the Monash project a commercial-sized carbon capture and storage development in Victoria could be two or three decades away.

It has been estimated that CCS could account for 25 per cent of the abatement in the world's CO_2 levels which is necessary for the future. This project is therefore important, not just from the point of view that it will help the Latrobe Valley, not just because $5 billion of investment is going to take place and not just because we will be using brown coal to develop diesel for the first time, but also because it will bring into play new technology that will potentially allow us to make very significant inroads into the reduction of greenhouse gases in this state and the rest of this country.

The government is driving clean coal policies through both technology and market-based solutions such as emissions trading and putting in place renewable energy strategies such as the Victorian renewable energy target scheme. We have a multifaceted approach to dealing with the problem of climate change for this state.

That broad mix of policies for dealing with climate change is in contrast to the attitude of the opposition. The single most important issue facing us as a nation is climate change and what we can do about it. We have an opposition which wants to go to an election but which does not have a policy on climate change. This opposition is not fit to govern the state purely on the basis that it has no policy to deal with climate change.

This project is of great importance for Victoria in economic and environmental terms, but when it was announced did we hear any words of support for it? Did we hear a peep out of the opposition for the project? No, of course not; there was not a word out of Mr Green Davis, not a word out of Mr Brown Davis and even Mr Hall from The Nationals, who claims to represent the Latrobe Valley in this place, had absolutely nothing to say.

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

Neighbourhood houses: Hawthorn

Hon. D. McL. DAVIS (East Yarra) — I direct my question without notice to the Minister for Local Government, Ms Broad, and I ask: will the minister confirm that the Bracks government's policy has failed to fund the Boroondara community house in Hawthorn?

Ms BROAD (Minister for Local Government) — I welcome any questions from the opposition in relation to the actions this government has taken to fund neighbourhood houses and learning centres right across the state. Under the Bracks government, funding for neighbourhood houses and learning centres has been tripled. That means more Victorians than ever before are able to access programs through neighbourhood houses and learning centres.

This is in marked contrast to the actions taken by the previous Kennett government, which cut funding, closed down neighbourhood houses, demanded that neighbourhood houses close down in order to — —

Hon. Bill Forwood interjected.

The PRESIDENT — Order! Mr Forwood has asked his question and will be quiet.

Ms BROAD — The Bracks government believes all Victorians deserve access to the opportunities that neighbourhood houses and learning centres provide. That is why we have been very pleased with several actions the government has undertaken to expand this program.

The first action we took on coming into government was to fund all of the unfunded neighbourhood houses which the Kennett government had failed to fund. Since then we have also invested in building new neighbourhood houses as well as providing operating funding to assist them with their coordinators, to assist them with their information technology and to assist them with a whole range of facilities requirements that they have. Most recently we have brought the pay rates of coordinators up to a decent standard, which they were certainly not at under the former government, and we have increased the program hours they are now able to provide through neighbourhood houses and learning centres.

We recognise that there is more to be done. There are more neighbourhood houses looking for assistance than have been funded to date, but we believe the substantial increases that this government has delivered have gone a long way to meeting the need in a whole range of communities in country and regional Victoria as well as in the metropolitan area. We will continue to strongly support the activities of neighbourhood houses and learning centres across Victoria.

Supplementary question

Hon. D. McL. DAVIS (East Yarra) — Will the minister confirm that the Boroondara community house has not been funded and that this points to a significant weakness in the government's policy, which has been acted upon by Mr Vogels as shadow minister? He is prepared to put forward significant funding — an extra $14 million over four years. Is it not true that the Boroondara community house is only one of more than 25 such neighbourhood houses in Victoria that the government has refused to fund, and why has the government excluded those houses?

Ms BROAD (Minister for Local Government) — Opposition members can make all the funding promises they like. At last count they were up to about $2 billion in funding promises. Only about $1 billion of those will be funded, and we all know what that is called because the opposition has form. We know that that is code for cutting services, closing schools, cutting nurses and cutting police officers in order to fund the unfunded irresponsible promises that it has made to date before the election campaign has even started. If the opposition expects anyone to take seriously the funding commitments opposition spokespersons are making about neighbourhood houses after what they did to them when they were last in government, it has got to be joking.

Information and communications technology: trade mission

Ms ARGONDIZZO (Templestowe) — I refer my question to the Minister for Information and Communication Technology. It was recently reported that the Bracks government supported a trade mission of Victorian information and communications technology firms to China. Can the minister provide the house with any details of the outcomes from that trade mission?

Hon. M. R. THOMSON (Minister for Information and Communication Technology) — I thank the honourable member for her question. The Bracks government has a strong commitment to growing the Victorian information and communications technology (ICT) industry, so much so that it has doubled its budget for trade fairs and missions to ensure that Victorian companies get the chance to travel and make the contacts that they need to do business globally. I have said in this chamber before that there is no more global industry than the ICT industry.

Last month the Victorian government supported 34 Victorian ICT companies to attend CeBit Asia in Shanghai. The initial reports back are fantastic. It is reported that the trade mission will generate over $25 million in business, and has secured around 100 leads for companies that actually attended. This is a great outcome and reinforces why we need to have a presence in China. The talents of the Victorian IT industry were well reported through features in both the *Shanghai Daily* and the *China Daily*, and with Wang Fang, an analyst in the Shanghai-based Sky-World Consulting, being quoted as saying:

> Small but smart — that's the competitive edge of the Victorian IT players showing at CeBit Asia 2006 compared with the other IT firms from US or Europe.

This is great praise indeed. The international recognition not only benefits the firms that went to China, and not only benefits the IT industry in Victoria, but it is a boost to the Victorian economy overall.

China is just one of the many destinations in relation to which the Bracks government has assisted Victorian ICT firms to attend trade fairs and missions. Since 2002 we have assisted over 600 companies to attend trade fairs and missions in over 30 countries, taking in every continent of the world. These trade fairs and missions have generated more than $750 million worth of exports for Victorian ICT firms, which is why the Bracks government is committed to maintaining this program and supporting it.

Unfortunately we do not get this support from the federal government. The former Minister for Trade, Mark Vaile, indicated that the federal government would not be supporting the states in developing a series of Australian ICT trade missions, ones to which we indicated we were prepared to contribute. It was also sad to see that the Leader of the Opposition in the other place in a speech to the Committee for Economic Development of Australia last month mentioned shutting down Multimedia Victoria, indicating that there would be a lack of priority for the ICT industry, one that is now reaping the benefits of what has been a very aggressive campaign to support it in this global environment.

Make no mistake, the Victorian government, the Bracks government, is committed to growing ICT companies in this state, to increasing opportunities for our economy to grow and to ensuring that we are able to meet the future demands of a technology-driven economy.

WorkCover: claims

Hon. B. N. ATKINSON (Koonung) — I direct my question without notice to the Minister for WorkCover and the TAC, Mr Lenders. What proportion of WorkCover claims is generated by the public sector compared to the private sector, and what is the ratio of prosecutions of public sector agencies for occupational health and safety breaches compared to private sector employers?

Mr LENDERS (Minister for WorkCover and the TAC) — I will take the specifics on notice, but I will happily address the general parts of the question for Mr Atkinson. He made a comment about where the public sector and the private sector fit into this. The Bracks government governs for all of Victoria and our laws apply to all Victorians. The report on the Occupational Health and Safety Act was done by Chris Maxwell. Members would be aware that it culminated in the Occupational Health and Safety Bill introduced into this place in December 2004.

Hon. B. N. Atkinson — And he now has a slight conflict of interest given that he hears most of the appeals and has a very defined position.

Mr LENDERS — I seek your guidance, President. I would have thought it was rather cowardly and disorderly in this place to reflect on judges.

Hon. Bill Forwood interjected.

Mr LENDERS — I take up Mr Forwood's interjection. This is a house of decorum, a house of review. We have standing orders which deal with the separation of powers. I would have thought the basis of parliamentary privilege was that we do not gratuitously cast aspersions on judges. I am a bit bewildered by Mr Atkinson, but I will ignore that unparliamentary and non-professional comment on his part and refer to the good work done by the then Mr Chris Maxwell, QC, in his review of the Occupational Health and Safety Act.

One of the most profound things about that review was that Mr Maxwell identified and recommended, and the Bracks government adopted the recommendation, that the government be an exemplar on the issue of occupational health and safety. That is not easy for governments but this is a government which stands by its convictions and applies the same rules to itself as it does to the private sector.

I do not have the number of prosecutions at my fingertips; I will take that on notice. However, there are instances where the Victorian WorkCover Authority has prosecuted public sector employees for breaches of the occupational health and safety regime. I have seen a number of those come through in my term — —

Hon. B. N. Atkinson — Employees or employers?

Mr LENDERS — Employers. It is a matter of public record. I assume Mr Atkinson got his files from Mr Forwood. If he trawls through the key words 'Department of Sustainability and Environment', he might be enlightened.

This government applies a consistent rule. Whether it be the private sector or the public sector it is in our interest to bring down injuries. We do not want to see workers injured, we want to see workers return home safely to their families, as the WorkSafe ad says. That is good for workers and their families. It is very good for the employer because keeping a skilled work force intact and returning to work is fantastic. We also want greater return to work.

We have injuries in both the public sector and the private sector. If Mr Atkinson wants a comparison, in Victoria the average WorkCover premium is 1.62 per cent. Perhaps Mr Atkinson should address his federal colleague the Minister for Employment and Workplace Relations, Mr Andrews, as the Comcare scheme, which is exclusively for the public sector, with the exception of a few Telstra linesmen, has a premium rate of 1.71 per cent. The basically white-collar Comcare scheme, based in a Woden tower with white-collar workers, has a higher injury rate than our scheme in Victoria, which includes shearers, abattoir workers, truck drivers — you name it.

We have a manufacturing and blue-collar base; the commonwealth has a white-collar base. Our premium is 1.62 per cent and its is 1.71 per cent. That is primarily because the Victorian regime is based on occupational health and safety and the Maxwell review. The act has been applied, injuries are down 4.4 per cent, and we are seeing that in premiums. Mr Atkinson can be assured that this applies to both the public sector and the private sector. He would be doing the state a favour if he were to tell his federal friend and colleague Mr Andrews to open his eyes, look at Victoria and learn something.

Supplementary question

Hon. B. N. ATKINSON (Koonung) — I find it hard to believe that the Minister for WorkCover and the TAC is concerned about the flight of employers to the Comcare system when the Victorian system compares favourably on premiums, if that is the measure people are using, as the government is using. I note in the Victorian WorkCover Authority annual report for 2006 that claims in key private sector industries, such as manufacturing, logistics, agriculture, construction and utilities, have fallen in the past year while public sector claims rose by 2.5 per cent. I therefore ask: why is there apparently less inclination by the Victorian WorkCover Authority to prosecute public sector employers for occupational health and safety breaches than there is to prosecute private sector employers?

Mr LENDERS (Minister for WorkCover and the TAC) — I suspect that Mr Atkinson read the report a bit fleetingly. If he is seeing a correlation between prosecutions and injury rates, if that is what he is saying out of his reading of that report based on prosecutions, it is a pity that he did not vote for the Occupational Health and Safety Bill two years ago when he was preaching at us on this side that prosecutions were not the answer. It is a pity that he did not read the report properly.

It is inane for Mr Atkinson to say that we do not prosecute public sector employers. We have prosecuted our own when they have breached the law, just like we have prosecuted people in the private sector. The key issue here is that if he is talking about statistics — and presumably he is talking about the claim rates — as I have informed this house before, and as anybody out there in the work force would know, the greatest single pressure on the workers compensation scheme in this state, the rest of the country and the Western World is stress. The Victorian WorkCover Authority is at the forefront of dealing with stress as an issue, unlike Comcare, which is not managing it. Mr Atkinson should read the report properly and then come back and ask another question.

Rural and regional Victoria: football and netball clubs

Hon. S. M. NGUYEN (Melbourne West) — My question is to the Minister for Sport and Recreation. Can the minister update the house on the incredible success of the country football and netball facilities program?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I thank Mr Nguyen for his interest in country football and netball. We have seen enormous success in this area. We know that country football and netball clubs are the lifeblood of local communities — they define communities. The Bracks Labor government will continue to invest in regional communities and their sporting bodies.

The $10 million country football and netball facilities program established in partnership with the Australian Football League last year is making a real difference in regional and rural areas. Take these statistics from the Victorian Country Football League (VCFL) for examples of the growing strength of country football. There are now more than 75 000 registered players in country Victoria, 1500 more than in 2002. Since 2001, 300 new teams have registered with the VCFL, mostly in the younger age groups and mainly in regional areas such as Bairnsdale, Bendigo, Sale, Mildura and Warrnambool. This year 22 of the 44 senior leagues achieved record gates at their grand finals, and most other leagues achieved record aggregate gates across all finals. Some 300 000 people attended country football grand finals across the state this year. This represents the health of country football and netball.

Hon. B. N. Atkinson interjected.

Hon. J. M. MADDEN — I take up Mr Atkinson's interjection. When the Leader of the Opposition in the other place, Mr Baillieu, was president of the Liberal Party, the then Liberal government under the Kennett leadership referred to country areas as the toenails of the state.

Hon. D. McL. Davis interjected.

Hon. J. M. MADDEN — That was reflected in regional areas, especially regional sports clubs, Mr Davis. They were completely neglected. It is great to see country football and netball really growing.

I advise the house that over $3 million has already been allocated through this program to improve 96 country football and netball clubs. That is almost 100 country clubs that have new facilities for players and umpires, upgraded social facilities for members and better lights

for training. This comes on top — there is more! — of some $1 million that the Bracks government contributed to 89 projects through the country football grounds assistance program to drought proof clubs. We are improving surfaces with drought-resistant grass species, installing water tanks and setting up recycling schemes. That is in stark contrast to the Liberal Party wafer-thin sports policy that was released recently, when it asked where the Bracks government's contribution to country football and sport community development was.

Mr Atkinson should have asked Mr Philip Davis about the $200 000 provided to the Morwell Recreation Reserve upgrade; or Mr Vogels, who is sitting quietly in the corner, about the $20 000 South Warrnambool received to upgrade its kitchen facilities or about the $60 000 that was allocated to the Allansford, South Rovers and Merrivale clubs to improve their netball courts; or he could have asked Ms Lovell about the $20 000 the Shepparton Swans have received to establish a new netball court.

Since 2000 the Bracks government has invested over $19 million in country community facility projects to the benefit of football and netball. The country football and netball program was developed after the outstanding work of a number of members in this chamber, not only the member for Seymour in the other place, Ben Hardman, but also Mr McQuilten and Mr Mitchell, who assisted. We have listened and acted. We will continue to fund football and netball clubs. In stark contrast to the Liberals, who referred to country Victoria as the toenails of the state, we are listening, acting and making Victoria a better place to live, work and raise a family.

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

QUESTIONS ON NOTICE

Answers

Mr LENDERS (Minister for Finance) — I have answers to the following questions on notice: 4060, 4100, 4597–8, 4626, 4635, 5297, 5671, 6080, 6148, 6258–67, 6441, 6557, 6622, 6797, 7026, 7034, 7283, 7442–4, 7457, 7484, 7503, 7533, 7622, 7626, 7653–5, 7668, 7674, 7701, 7710, 7714, 7716, 7737–9, 7752, 7779–81, 7794, 7821–2, 7836, 7937, 7939–40, 8027, 8059, 8064, 8074, 8380, 8389, 8394–6, 8398, 8400, 8405, 8490–500, 8509–15, 8680, 8715, 8717–19, 8731–4, 8736–42, 8744–5, 8747, 8751, 8753–8, 8762–4, 8766, 8767, 8769–77, 8779–83.

Hon. BILL FORWOOD (Templestowe) — For my last whinge in my last a week it would be good if my outstanding questions could be answered. I have written to all the ministers in this place — I know some are really up to date, and I thank them — but rather than going through the questions one by one and number by number, I would appreciate answers before I leave this place on Thursday.

MEMBERS STATEMENTS

Members: felicitations

Hon. ANDREA COOTE (Monash) — This is the last sitting week of this, the 55th Parliament. Many of us will be back in this place for the 56th Parliament, some of us will be going to join the other place, some of us will leave voluntarily, some of us have chosen to retire and some of us may be surprised not to be returned. It is therefore timely for me to take this opportunity to acknowledge members whom I know will be leaving this place: Ministers Madden and Thomson, Lidia Argondizzo, John Eren, John McQuilten, Robert Mitchell, Sang Nguyen, Geoff Hilton, Helen Buckingham and Noel Pullen from the government; Barry Bishop and Bill Baxter from The Nationals; Independent Dianne Hadden; and you, President. I have enjoyed working with all of you.

I especially want to acknowledge the professional contribution made by Mr Geoff Hilton, with whom I worked on the Environment and Natural Resources Committee. It was a pleasure to be on the committee with him. I believe the people of Victoria would be pleasantly surprised to know how well their political representatives work constructively for the betterment of this state.

I want to thank my own colleagues — Ron Bowden, Andrew Brideson, Bill Forwood, Chris Strong and Graeme Stoney — for the great contribution they have all made to the state of Victoria. I especially want to acknowledge the Opposition Whip, Graeme Stoney, for his sound advice, steady temperament and wise counsel.

On a personal level I wish to thank you all for your guidance, support and friendship. This is an unusual job, but the camaraderie that develops is unique and is something to be treasured well beyond the walls of this chamber. My best wishes to you all.

Melbourne Storm

Hon. J. G. HILTON (Western Port) — I congratulate my beloved Melbourne Storm on a great

season in the National Rugby League. Being minor premiers by four clear games is a wonderful achievement. The players, coaching staff and supporters are all disappointed after Sunday's grand final match, but the players can hold their heads high. The club's theme song contains the words, 'We are the Storm and we are no. 1'. They are still no. 1 in the eyes of their supporters.

Buses: Western Port Province

Hon. J. G. HILTON — On a happier note, an announcement was made yesterday on new bus services in the electorate of Western Port Province. The new services include an improved Wonthaggi town service with six return trips every Monday to Friday, including five daily return trips to Cape Paterson; an improved Cowes to Wonthaggi service, with the frequency increased from one weekday to five days a week. The Wonthaggi town service will include a low-floor bus design to cater for people with disabilities, the elderly and people with prams. I am very pleased that the announcement has been made as improved public transport is an important part of the commitment to reduce greenhouse gases produced by fossil fuels.

Government: scrutiny

Hon. RICHARD DALLA-RIVA (East Yarra) — I was surprised yesterday to see a press release from the Premier, suggesting that hundreds of annual reports will be tabled in this last sitting week of Parliament. It was amazing that the Premier said he was pleased that over 300 annual reports will be dumped in Parliament before the end of the sitting week.

The reality is that this government avoids scrutiny at all costs. We will find we have tables out there, covered with volumes of annual reports which we are expected to go through with some level of scrutiny. How on earth can we scrutinise these things when the government will dump 300 annual reports over the next few days, less than eight weeks prior to the state election? This is a further cover-up by the government. Whether it is freedom of information, annual reports or whatever, the government hides under a veil of secrecy and does not like scrutiny or being held to account. Another classic example this week is of the Premier himself who admits that he will cover up further reports. We will have to trawl through 300 reports.

Hon. T. C. Theophanous — You idiot.

Hon. RICHARD DALLA-RIVA — The minister says, 'You idiot'. The reality is the minister is the idiot because he is part of a government that is presiding over secrecy and is involved in the avoidance of scrutiny. The government should hang its head in shame.

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

Mohammed Sagar

Hon. H. E. BUCKINGHAM (Koonung) — I want to take another opportunity in this house to speak on asylum seekers, in particular Mohammed Sagar who was featured in an article in Saturday's *Age* and also in its editorial. He is the last asylum seeker on Nauru. There used to be two asylum seekers left on Nauru but Muhammad Faisal, who is 26 years old, was moved to a psychiatric hospital in Brisbane because he is suicidal. Shamefully, he remains, according to the *Age*, in a 'perilous state'.

These two are the last of 1500 boat arrivals who were processed on Nauru between 2001 and 2005. The Australian Security Intelligence Organisation has assessed these individuals as a risk to Australia's national security. Unlike convicted criminals, these two men have no idea of the case against them and no opportunity to answer it. The Pacific solution allows for mandatory and indefinite detention without recourse to proper legal facilities. Mental decline seems to be the only excuse for a way out. The editorial says:

> The truly disgraceful aspect of this entire saga is the severe mental trauma such confinement has caused, or threatens to cause.

What is happening to these two young men is unjust, inhumane, wrong and just plain evil. The *Age* says that Mohammed Sagar is:

> a symbol of an intransigent government long out of touch with human rights and whose policies of mandatory detention are unjust and shameful.

I could not agree more. Shame on the Howard government!

Hazardous waste: Nowingi

Hon. W. A. LOVELL (North Eastern) — I wish to inform the house of the results of a survey conducted by Donna Petrovich, a candidate for Northern Victoria Region, and me. This survey, conducted with school councils and communities along the Calder Highway corridor, involved the Bracks government's plan to transport toxic waste 500 kilometres from Melbourne to Hattah-Nowingi.

Of the respondents, 100 per cent did not support the government's plan to build a toxic waste dump at Hattah-Nowingi; 100 per cent said they were concerned about the transportation of toxic waste 500 kilometres along the Calder Highway; 100 per cent said they believed the Bracks government's plan to transport toxic waste would have a negative impact on their community; 92 per cent did not believe toxic waste should be transported past schools, kindergartens, creches and other community facilities; 100 per cent were concerned about the environmental impacts on their community if the proposed toxic waste dump at Hattah-Nowingi goes ahead; 85 per cent were concerned about the health impact on their community; and 100 per cent said the Bracks government had not contacted them in any way to keep them informed on the impact the proposed toxic waste dump would have on their community.

This is an example of how the Bracks government is not open and accountable and does not consult with communities over issues — —

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

Royal Melbourne Show: exhibits

Ms ROMANES (Melbourne) — On grand final day I visited Parliament's exhibition at the Royal Melbourne Show. At the show thousands of people were having a wonderful day out enjoying the enhanced facilities at the transformed Melbourne showgrounds. This year's show was one of the most successful ever, with over 600 000 attending.

One great initiative was a large feature exhibit of one particular region's wares in the new and expansive grand pavilion as part of the Making It Happen in Provincial Victoria promotional campaign.

This year was Gippsland's turn, and Gippsland businesses put on a magnificent display of food, wine and dairy products from all over that region. Members of the public flocked to sample the cheeses, asparagus and honey and to taste a variety of wines. It was at the Gippsland exhibit that I bought my only show bag, packed by a 'Taste of Gippsland hampers' from Warragul. It was fantastic value and included a bottle of wine of choice, jams, chutney, honey, asparagus and vouchers.

The whole Gippsland effort was really impressive, and those involved should feel proud of how well they presented the products that Gippsland has to offer the rest of Victoria.

Possums: control

Hon. C. A. STRONG (Higinbotham) — I rise to congratulate Port Phillip City Council on the action it is taking to protect the famous Catani Gardens from the ravages of dreaded possums. Members will know about the concern many people have with possums and how they destroy our gardens and how they are in plague proportions.

Port Phillip council has decided to act against the possums which are destroying the Catani Gardens. By trapping and killing the council will reduce the possum population from an estimated 80 down to 30. It makes the point that it is totally impractical for these gardens to cope with a possum population of about 80, so it intends to carry out a cull. It would be great if this action by Port Phillip council was picked up by many other councils around the metropolitan area, particularly in the bayside area. They should go out culling possums that are in plague proportions and are in fact destroying our gardens. We are proud to be the Garden State, but there is not much left when the possums are finished. It is about time we got on with a possum cull. I congratulate Port Phillip council for taking this action.

Great Ocean Road, Moggs Creek: powerlines

Ms CARBINES (Geelong) — Next year is the 75th anniversary of the opening of the Great Ocean Road, our nation's internationally renowned iconic coastal road. To mark this historic occasion the Great Ocean Road Coast Committee has proposed relocating the 40 power poles that abut the Great Ocean Road at Moggs Creek. These power poles and lines are a blight on the natural landscape. Their relocation would not only enhance the visitor experience but also improve the safety of the millions of motorists who travel along the Great Ocean Road each year.

Powercor Australia estimates the cost of this relocation would be in the vicinity of $3.5 million. Last week I was very pleased to attend a stakeholder meeting to discuss funding options. Present were representatives from Surf Coast shire, the Great Ocean Road Coast Committee, local residents, VicRoads, Powercor Australia, the Department of Sustainability and Environment and local hang-gliders, who enjoy taking off from the cliffs above the Great Ocean Road — all enthusiastically supporting the project and prepared to commit funding. Sadly Stewart McArthur, the federal member for Corangamite, was unable to attend the meeting, and most disappointingly sent a message to say that no federal funding was available to support this exciting initiative. The Bracks government is prepared

to fund up to half the cost of this project, and I call on Stewart McArthur to match our funding commitment to allow the relocation of these power poles along the Great Ocean Road to proceed in time for the 75th anniversary next year.

Robinvale: rural enterprises project

Hon. B. W. BISHOP (North Western) — I wish to inform the house that we had a great day in Robinvale last week with the launch of the strategic plan for So Great, the sustainability of government rural enterprises advancing together project. Congratulations go to Graem Kelly, who is chair of the So Great steering committee and also chief executive officer of Robinvale District Health Services, for his vision, commitment and absolute determination to link up 22 partnerships to better deliver services to Robinvale, which is renowned as one of the fastest growing towns in Victoria. Graem and his committee have drawn together the Swan Hill and Balranald municipalities, the Central Murray Area Consultative Committee, educators and trainers from the area, health providers, emergency services such as Rural Ambulance Victoria, the Country Fire Authority and Victoria Police, and others such as Loddon Mallee housing, the Murray Valley Aboriginal group and eight government departments. The project has five objectives: youth, children and family; housing; safety and environment; education and training; and community leadership, governance, partnership and identity. These objectives are designed to pull everyone together to develop a cohesive community that can plan together to address the needs of the region, supported by all levels of government. Congratulations again to all involved. I wish the So Great project all the best for the future.

Bridges: Robinvale

Hon. B. W. BISHOP — We will also have another big day in Robinvale next Saturday, with the opening of Robinvale bridge. I congratulate all those who played a part, as it has been a really great, community-driven process.

Privacy Awareness Week

Ms MIKAKOS (Jika Jika) — On Friday, 1 September, I was honoured to speak at an Office of the Victorian Privacy Commissioner event to mark the fifth anniversary of the Information Privacy Act coming into effect. This was one of the great achievements of the Bracks government. This event capped off Privacy Awareness Week, which included events and information sessions designed to raise awareness of privacy issues within the Victorian public sector. The theme for the week, which was part of national activities, was 'Don't leave privacy to chance'. I know Victorian public servants take the issue of privacy very seriously. They take great care to ensure that information provided to them is treated confidentially and discreetly. Privacy is an issue that is dear to the hearts of members of Parliament, as most of us do not have a great deal of privacy. I am pleased that Victoria has recently become the first state in Australia to enshrine a right to privacy. It was included in the Victorian charter of human rights and responsibilities, which will come into effect on 1 January next year.

I take this opportunity to pay tribute to Paul Chadwick, the outgoing privacy commissioner, and to congratulate the Office of the Victorian Privacy Commissioner on organising Privacy Awareness Week and on the important work it does for the Victorian community.

Bushfires: fuel reduction

Hon. D. McL. DAVIS (East Yarra) — I am pleased today to place on record some concerns I have regarding the preparation for fires this summer. Given the terrible fires that occurred last summer, particularly in the Grampians, and given the mismanagement of many fuel reduction burns in recent times by the Department of Sustainability and Environment and Parks Victoria, I am concerned about fire preparation this year. I have a letter from the Grampians Asset Protection group to a series of government officials on fire-prevention issues in the Grampians National Park. The letter says the group:

> … argues strongly for a reassessment of fire-prevention strategies in the park, including a major increase in fuel reduction burning.

It goes on to say of the Grampians:

> On the other hand, significant areas of it remain a major fire hazard as we face another potentially dangerous summer …

This is a significant warning to Victorians given the dry, long winter we have had and the likely dry, hot summer we face this year. The letter goes on to say a proper balance needs to be restored, and discusses the need for long-term fuel reduction burning. Clearly the issue is that there is no time to lose, if there are any opportunities over the next couple of weeks. The sad fact is that it may be too late for many of Victoria's forests. The government has not prepared in time, and that lack of preparation may come back to bite us.

Tongala: community centre

Hon. KAYE DARVENIZA (Melbourne West) — I was delighted to be in Tongala last Friday, along with

Noel Maughan, the member for Rodney in the other place, who is the local member, and the Minister for State and Regional Development in the other place, John Brumby, for the announcement of the $250 000 state government commitment to develop a community centre in Tongala. Nestlé also announced it would match the government's contribution. A large number of people from the local community were also at Tongala hall for the announcement. The new centre will incorporate a range of community facilities, including a meeting room. It will provide health services, such as youth health, clinical services and pathology.

I want to take this opportunity to congratulate the community on its terrific fundraising efforts of $10 000. I also congratulate Jean Courtney, the manager of the Tongala aged care facility, Neil Cowen from Kyabram and District Health Services and Judi Lawler, the mayor of the Campaspe shire, who have done an enormous amount of work to make sure this community centre comes to fruition.

Borung Highway, Donald: accident

Hon. DAVID KOCH (Western) — Last week's horror road accident at a Y-intersection on the Borung Highway near Donald claimed the lives of seven people, four of whom lived in Western Province. A couple, Graham and Kathleen Millard, from Heywood, were well-known, respected and heavily involved community members for many years. The Millards were heading to Dubbo to compete in the New South Wales state go-cart championships. The Heywood community, along with the rest of Victoria, was horrified by this crash, which was the worst in Victoria for a decade. While Heywood mourns the loss of Mr and Mrs Millard, it is coming together to support the Millard's only child, Kevin.

A Horsham family was also devastated by this tragedy. Mick Purdue lost his father, Max, and his partner, Mandy Niblett, who was a young mother. Also in the vehicle were members of the Kelly family of Balranald, who were on their way to Horsham for a long-overdue holiday.

While the Premier has promised to fix the intersection, it is of little comfort to the grieving families and their friends who are the victims of yet another avoidable accident on our country roads. Unfortunately country roads receive too little and often too late. I extend my condolences to the families and friends of those who lost their lives. I hope there is some comfort for them in knowing that all Victorians feel for their loss.

Doncaster Primary School: redevelopment

Ms ARGONDIZZO (Templestowe) — On 25 August I attended the official launch by the Minister for Education and Training in the other place, Minister Kosky, and the local federal member, Kevin Andrews, of the completed redevelopment project at Doncaster Primary School. The large-scale redevelopment was completed in three stages at the school, half of which was destroyed by fire in 1979.

The state government provided $1.9 million for the project, the federal government contributed $1.05 million and the school community raised the balance to make up the $3 million redevelopment. The redevelopment has delivered a new library resource centre, student toilets, a music room, an administration centre and a staff car park. This has ensured that Doncaster Primary School can continue the excellent standards that have made it a beacon in the Doncaster community. As part of the Bracks government's reinvestment in infrastructure, in 2004 the school was also the recipient of a grant of $898 000 for general purpose classrooms.

Minister Kosky was pleased to launch the completion stage of the project. She was greeted enthusiastically by the students, teachers and parents who attended the launch. The minister was quick to point out that a strong partnership between the school, the community and the government had improved the learning environment for students. She also pointed out that the Bracks government had made a commitment to valuing and investing in lifelong education through the provision of first-class educational facilities. Since 1999 the Bracks government has invested an additional $6.3 billion in education and training, and hundreds of major building projects have been undertaken across Victoria.

Libraries: funding

Hon. J. A. VOGELS (Western) — Public library costs are far exceeding the growth in grants due predominantly to additional information and communications technology and book infrastructure requirements. Staff costs are also exceeding the Bracks government's consumer price index and population escalators.

The Bracks government's contribution to public libraries has fallen from 23.3 per cent to 19.9 per cent per annum. This reduced contribution has required local government to pick up the funding shortfall or cut services. Libraries require a substantial increase in recurrent library grants to ensure that the capacity of

services that contribute to the building of knowledge remains strong. That is why a Liberal government will increase recurrent library funding by $31 million in our first term. The Bracks government contributes approximately $5.65 per capita or $29 million per annum to this service. A Liberal government will increase this contribution to $9 per capita or approximately $46 million per annum.

There are 310 library service points across Victoria covering all 79 councils. A total of nearly 50 per cent of Victoria's population is registered with a public library, and over 30 million visits were made to libraries in 2004–05. A Liberal government will halt the decline that has occurred in library funding under the Bracks government, because we understand libraries are community institutions that provide an invaluable service which should be accessible to all Victorians.

CONVEYANCERS BILL

Second reading

Debate resumed.

Hon. W. R. BAXTER (North Eastern) — I am pleased to make a brief contribution to the debate on the Conveyancers Bill. It is a useful and welcome initiative. The conveyance of property is quite a technical matter in some respects. It is very important and serious, because the only time many people will be involved in the conveyance of real property is on the occasion of the purchase of their family home. If they have only one home in their lifetime, then that will probably be it for them so far as conveyancing is concerned. It is a matter which for many years has been in the hands of the legal profession and which, from my observations, has been done extremely well by that profession over many decades.

But it is probably worth observing that much of the detailed work involved in conveyancing — the hack work for want of a better term — has probably been done by clerks within legal practices. The practitioner himself or herself has simply signed off at the end of the work. That has worked well, there is no doubt about that, but national competition policy has indicated that that is a restriction on trade and that there is no reason why other properly qualified people cannot offer similar services in the marketplace. That is a perfectly valid conclusion for the National Competition Council to reach.

I hope and anticipate that the regulation of conveyancing by those who are not in the legal profession will introduce some competition and lower the costs of purchasing a property. At the same time, because of the regulations that have been introduced regarding the matter of qualifications, licensing, the operation of a trust account and the like, this will give users of the service — purchasers of property — every confidence that their best interests are being seen to.

There have been some examples in recent times, particularly in Geelong with Grove Conveyancing, where clearly all was not right and some clients lost a lot of money; there is no doubt that that was a tragedy in anyone's view. I do not know how that came about. In the past I would have been very reluctant to use a conveyancing firm that was not attached directly to a legal practice, but once this bill becomes an act of Parliament and we have proper licensing, proper qualifications, proper training and the establishment of a trust account system, I do not think I would any longer harbour a reluctance to use a conveyancing firm which was not part of an established legal practice.

I have been fortunate over my lifetime to buy a number of properties and to sell one or two of them. The quality of work I have had done by various legal practitioners in the conveyancing area has, on occasions, not been as good as I had expected. I can think of one in particular, now some 30 years ago, which I believed to be grossly deficient. Simply having a legal practitioner execute the work for you is not necessarily a guarantee that you will get every 'i' dotted and 't' crossed, because in that example that did not occur.

In more recent times I have dealt with a person acting on behalf of a friend who was providing conveyancing services, and that person did an excellent job. I had absolutely no concerns that he was not absolutely competent and had attended to every detail.

I, in consultation with the Leader of The Nationals in the other place, who has legal qualifications, have had a good look at this bill. We are both satisfied that it is sufficient and adequate. It addresses our concerns. It does not extend conveyancing work by non-legal practitioners to the sale of businesses, for example. It does not allow them to apply for probate or administration of a deceased estate, which often involves the conveyance of real property. Those matters remain within the exclusive purview of legal practitioners.

As a safeguard, I suppose that is fair enough, but in due course experience will probably dictate that it will be possible under this legislation for conveyancers who set up business to extend the area of work they will be able to undertake. I suppose the proof of the pudding is going to be in the eating. We will see how it goes, but I

can see no reason why, in due course, there may not be a suitable extension to their capacities and capabilities.

The situation with titles is exceedingly complex. We are fortunate, as Ms Lovell noted, in this state to be operating mainly on the Torrens title system, which is secure and relatively easy to follow. I am not expert in this field, so I am not certain, but I understand that a number of general law titles still in existence in Victoria are progressively being converted to the Torrens system. Nevertheless, the chain of transactions relating to those ancient titles can be exceedingly complex and detail can be overlooked, so we want to be sure, in terms of the regulations and the qualifications that these people actually gain, that they are right on top of the job. However, I have no reason to believe that that is not going to be the case. The Nationals believe that legislation such as this could well have been introduced some time ago, but we are pleased to see it arrive now.

Ms MIKAKOS (Jika Jika) — I am very pleased to make a contribution in support of the Conveyancers Bill. The government appreciates the support of the Liberal Party and The Nationals for this legislation.

Purchasing a home is, for many Australians, the single largest financial outlay they will be involved with during their lives. Particularly today, when housing has become comparatively more expensive as a proportion of a person's annual income, the stresses placed on individuals and families are enormous; they want to ensure that all costs associated with the purchase of their home are as low as possible. Conveyancing is a significant part of the process of buying a property. Consumers rely on the knowledge of others about those processes, finances and the law. We rely greatly on the integrity and honesty of those individuals. That is why this bill is so important, as it brings the law into a more contemporary framework. It ensures that the reality of conveyancing in Victoria and its regulatory framework as it relates to the conveyancing industry are modern, and it ensures an inexpensive and efficient industry.

In recent years increasingly non-lawyers have performed a great deal of conveyancing work in this state. This bill seeks to reflect that into law and, in effect, to abolish the artificial distinction between the legal and non-legal professionals working in this area. This bill relates to non-legal conveyancers, as lawyers are already covered by the provisions of the Legal Profession Act 2004.

I recall with some fondness my early work as an articled clerk, when I had to perform a great deal of conveyancing work and, in effect, to attend on a number of occasions the settlement of conveyancing transactions. That is the kind of work that all articled clerks are required to perform in order to get the basic understanding of what forms a lot of the bread-and-butter work of suburban legal practices. I certainly enjoyed the experience of being involved in what was, for many consumers, the very joyous occasion when they were handed the keys to their new homes.

In many instances today consumers are choosing to use non-lawyers for their conveyancing work, and we need to ensure that that industry retains the confidence of Victorian consumers. We need to provide greater confidence and certainty for this industry, and this bill seeks to provide Victorian consumers with very positive protections that will benefit both consumers and the industry itself in the years to come.

The Honourable Bill Baxter, in his contribution, already referred to an instance of where things can go wrong, and things can go horribly wrong, as occurred with the recent collapse of Grove Conveyancing in Geelong, which highlighted the need for reform of the regulatory regime governing conveyancing.

According to the *Geelong Advertiser* of 28 June, Grove Conveyancing collapsed, owing more than $7 million to prospective home buyers, and I can only imagine the great deal of stress and anxiety that would have befallen those particular home buyers in having that firm go under. That is a good example of the need to ensure we have a system that protects the interests of consumers and in particular provides for an adequate system that relates to the handling of moneys held in trust, and that is what this bill seeks to do.

The bill will put in place a regulatory environment that will ensure the skill and knowledge of conveyancers. No-one in Victoria will be permitted to be a conveyancer unless they hold a licence that will be administered by the Business Licensing Authority, and the decisions of that authority will be reviewed by the Victorian Civil and Administrative Tribunal.

To practise in Victoria conveyancers will need to have completed a recognised qualification and to have had 12 months relevant practical work experience in the field. The bill also provides for transitional arrangements for those already working in the industry, with more than 12 months to continue practising so long as they obtain appropriate qualifications within a five-year time period.

The bill also provides for increased protection from fraud and error by a conveyancer. The bill creates a clear power for conveyancers to hold client moneys and

requires conveyancers to maintain a separate trust account. The bill requires that these trust accounts be audited annually and that the audit report be provided to the director of Consumer Affairs Victoria who will be able to investigate deficiencies or irregularities and to take appropriate action to protect consumers.

Conveyancers will also need to take out professional indemnity insurance at a prescribed level as set by a ministerial order. Also, further protection will be provided to consumers against fraud and misappropriation of funds held in trust through the establishment of the Victorian Property Fund. Licence fees and interest from funds held in trust by conveyancers will be collected in this fund and will be used in part to compensate consumers who have been victims of fraudulent dealings by conveyancers.

Conveyancers will have to ascribe to a high level of professional conduct, including disclosure of costs to clients and conflicts of interest. These duties are similar to those imposed on legal practitioners under the Legal Profession Act. The legislation puts in place a great deal of protection from fraudulent activity, and protection is being afforded to consumers in a number of different ways.

The regulation of conveyancers in Victoria will help make possible the national recognition of conveyancers in other jurisdictions. A nationally recognised training package will also contribute further to the free flow of qualified and experienced conveyancers throughout Australia, so by abolishing the artificial distinction between legal and non-legal work in conveyancing, with the exclusion of a sale of a business, the bill will contribute to further competition in Victoria. That will be good news for Victorian consumers, as increased competition will ensure cost competitiveness amongst various conveyancers. The regulation of the industry will also force the unqualified, untrained and just plain shonky conveyancers out of business, which again is good news for consumers.

By way of conclusion, the bill has been the product of extensive consultation with the industry groups. The process began in 2004 with a review that the government commissioned through the Allen Consulting Group. That group put out a discussion paper in March 2005 and took submissions from industry stakeholders. The government released in January this year its response to the Allen report and took on board further submissions. It held meetings with a number of stakeholders including the Victorian branch of the Australian Institute of Conveyancers, the Real Estate Institute of Victoria and the Law Institute of Victoria.

The government has been prepared to take into account and to satisfy a number of comments — not all but a number of them — received from stakeholders.

I acknowledge the work done by Consumer Affairs Victoria and by the minister, including the minister's predecessor, in ensuring that the house now has before it a very well considered piece of legislation that has taken a great deal of work to bring before Parliament today. The Conveyancers Bill will provide for greater certainty for the industry in the future and will also provide for a more competitive environment for Victorian consumers in undertaking the purchase of a home, which is a very important transaction for most of us. I commend the bill to the house.

Ms HADDEN (Ballarat) — I rise to support the Conveyancers Bill, and I certainly welcome it. It has been years in the making; in fact Grove Conveyancing of Geelong and Werribee collapsed in October 2004, so it has taken the Bracks Labor government two years to get its act together.

The problems of Grove Conveyancing did not just appear in October 2004 when it collapsed; the complaints were being made well and truly over approximately 10 years before that, but they fell on deaf ears because there was no-one to monitor them, apart from the police — the fraud squad — and the federal trustee, but the issue was a real one.

Ballarat has been very fortunate in that it has three highly regarded conveyancing firms. They are members of the Australian Institute of Conveyancers and they hold Fidelity Insurance, which information appears on their letterheads — which is the first thing they tell their clients. In the early years when the conveyancers set up practice in Ballarat in the 1980s, to its credit the Ballarat and District Law Association kept a very close eye — as did I and other lawyers — to see that they were not pulling the wool over their clients' eyes and that they were doing the right thing.

The important aspect of the Conveyancers Bill is that it requires the conveyancer to be licensed, it requires him or her to hold a trust account and to hold the moneys on behalf of clients in the trust account. As I said, the bill requires that conveyancers be licensed through the Business Licensing Authority, protects consumers of conveyancing services and enables the monitoring and supervision of a conveyance. The bill also requires a conveyancer to be qualified as a licensed conveyancer and to undertake appropriate education in that regard as set out in the act.

Another issue is that the bill removes from the definition of 'conveyancing work' the distinction between legal and non-legal work. The bill repeals part 7.1 of the Legal Profession Act 2004, which will enable licensed conveyancing agents to prepare documents for the sale of freehold interest in land, assignment of leasehold interest in land and the grant of a mortgage or other charge. The definition of 'conveyancing work' is set out in clause 4 of the bill.

It certainly is about time that we had some regulation, training and skilling up of conveyancers in this state so that we do not have cases involving losses in excess of $7 million, which was what occurred when Grove Conveyancing Services collapsed in October 2004. That collapse affected not only mum and dad investors and first home buyers, it also affected people who had sold their homes and left their money with the company. From investigations that are taking place we now know that such events cost taxpayers a lot of money. Bankruptcy trustee, Mr Philip McGibbon, is trying to find out where the $7.5 million-or-so has gone, but I do not think he will find it. It would be good if he did, but I think the horse bolted well over two years ago.

In a submission to the government-commissioned review, which was commenced by the Allen Consulting Group in December 2004, the Law Institute of Victoria recommended that changes would be a win-win situation for consumers and would drive unqualified, untrained and non-indemnified conveyancers out of business. That is what this bill will do if it is enforced properly. In its submission the law institute said that it did not agree with the abolition of the current distinction in the Legal Profession Act between legal work and non-legal work. The institute said that the most important objective in the review of conveyancing regulation services in this state was consumer protection.

The submission might have some teeth later on when the government holds a review that will look at whether conveyancers have the power to engage in transactions involving the sale of businesses. That review is to be completed by July 2009. That is covered in proposed section 4(3)(b) of the bill. However, the bill provides that the government will review the exclusion of conveyancing work relating to the sales of businesses by 1 July 2009. I think it is important that that review take place and that full scrutiny be given to whether conveyancers are capable of doing that extra legal work. It is an issue, and not one of consumer compensation.

Quite frankly, in country Victoria conveyancers and lawyers charge roughly the same for their services for the purchase or sale of land. It really is much of a muchness. Many people I come across go to a conveyancer or to a lawyer, so my view is that the introduction of this new Conveyancers Bill will make no difference to the lowering of the cost of legal services for conveyancing in the state. However, it will protect consumers against certain types of people out there who will have to disappear unless they are licensed — people like those at Grove Conveyancing. The events that occurred at Grove Conveyancing were absolutely disgraceful and, in my view, probably on a par with those that occurred at Pyramid Building Society. We do not want those situations to be repeated in this state. It is not fair or right, and it is about time we ran these rogue operators out of Victoria.

Before I wind up I will mention that nearly 12 months ago, on 17 November last year, I asked the Minister for Consumer Affairs when she was going to act to protect mum and dad home owners from such rogue conveyancers as Grove Conveyancing Services in Geelong. She informed the house that she and the Attorney-General were looking into it and the response in the Allen Consulting Group's report. It has taken the minister 12 months to look into it, and it is a shame that this bill was not introduced in this place a good 12 months ago.

Protecting consumers from rogue conveyancers is an important issue that has been screaming out for review and reform so that a proper regulatory regime is in place to protect customers of conveyancers in Victoria. That is about all I have to say. There is probably a lot more I could say. The bill has been a long time coming. It should have been here at least 12 months ago. Those people who have suffered and continue to suffer as a result of the Grove Conveyancing collapse will not be relieved by the passage of this bill, because they have lost their money. I commend the bill to the house.

Motion agreed to.

Read second time.

Third reading

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

That the bill be now read a third time.

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

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

CRIMES (SEXUAL OFFENCES) (FURTHER AMENDMENT) BILL

Second reading

Debate resumed from earlier this day; motion of Hon. J. M. MADDEN (Minister for Sport and Recreation).

Hon. C. A. STRONG (Higinbotham) — I rise to speak in the debate on the Crimes (Sexual Offences) (Further Amendment) Bill and to let the house know that the opposition will be supporting it. The bill amends various pieces of legislation, including the Crimes Act 1958, the Evidence Act 1958 and the Magistrates' Court Act 1989. As we learnt this morning from the minister through the second-reading speech, the bill also amends the previous Crimes (Sexual Offences) Act, which we dealt with earlier this year. It makes various amendments to that act to clarify when, how and to whom the provisions of that bill will apply in any cases that are afoot.

Essentially the bill does three things. It clears up inconsistencies and what appear to be confusions as to what form of warning a judge can give in trials involving sexual offences. It also makes it clear that in sexual offence trials the complainant can give evidence in a way that will ensure that the person will not be confronted by the offender. In other words a person will be able to give evidence from behind screens, by closed-circuit television and the like. The bill also amends the Magistrates' Court Act to create a sexual offences list, which will have particular magistrates responsible for it. There will be a new Magistrates Court list dealing only with sexual offences.

I turn firstly to the amendments to the Crimes Act. The Crimes Act contains what seem to be slightly conflicting requirements in relation to sexual offences. The point has been made that in many cases there is a very significant time difference between when the sexual offence is committed and when the victim reports and seeks justice against the person who committed that offence. There are various reasons why that may happen, including embarrassment, and there may well be family and children involved. There is often a significant time lapse between the offence and the reporting of the offence.

In the normal way of things a significant amount of time between the carrying out of a particular offence and the reporting of the offence is seen as a defence on the basis that the evidence has gone cold and people's memories of the event may have faded; getting a fair trial is made more difficult if there is an extended time lapse between the offence and the bringing of the case to trial.

There exists in the Crimes Act a provision that allows the judge in sexual offence cases to inform the jury that the time lapse that normally occurs should not be taken into account in the jury's deliberation of the particular case. This is called the Crofts warning. It came out of the case *Crofts v. R* and allows the judge to warn the jury that it should not disregard the evidence because there has been a long time difference. There is also what is called the Longman's warning, which comes from the case *R v. Longman*. It requires the judge to warn the jury that if there has been a significant time lapse between the offence and the trial, it needs to take that into account and perhaps discount the evidence by virtue of that long time gap. So we have two conflicting warnings which a judge is required to give. The amendments clean that up by outlining the circumstances in which those warnings are to be given or not given and clear up the whole area which has made the task of the jury a little bit difficult.

The second amendment deals with the Evidence Act. As I have said, it allows the complainant to give evidence more or less in private. In many sexual offence cases that already happens. The complainant can apply to give evidence from behind a screen or by closed-circuit television, et cetera. What these amendments do is reverse that onus. In other words the court is obliged to provide the screens, closed-circuit televisions et cetera, and the complainant can choose not to use them, but the onus is reversed so that the requirement is that they be provided.

The third amendment deals with the setting up of a special list for sexual offences. The benefits of that are fairly obvious given that there is a degree of specialisation. These special provisions will mean that amenities such as closed-circuit televisions and screens et cetera can be set up for that particular list in that particular court. There are clear advantages in having a specific list for sexual offences.

In essence they are the amendments. They are fairly straightforward and simple. They seek to make the carrying out of sexual offence trials smoother and easier for the jury and the court and less stressful for the complainants. On that basis we can only say that these amendments should be encouraged. These crimes are

very difficult crimes that need to be dealt with in a way that is sympathetic because the trauma of a sexual offence can be very significant for everybody involved. These are appropriate amendments, and I commend them to the house.

Hon. W. R. BAXTER (North Eastern) — I think this is probably the fifth or sixth bill relating to sexual offences that has come before the Parliament since the Bracks government came to office. In a sense I am really sad about that. I do not know whether that means that the number of sexual offences is increasing in our community, or whether it means that they are now being reported more often than they were. I do not complain about the fact that this is the fifth or sixth amending bill that we have had. I think it indicates that the community is becoming much more sensitive in the way it deals with these very difficult cases and that perhaps insufficient consideration had been given to the feelings of complainants in the past. Perhaps in the past there has been too much straight up and down the line as if they were an ordinary case, so to speak, between a victim and an alleged perpetrator, as if it were a punch-up or other such incident rather than one that involves a sexual offence. I hope we are simply getting better at dealing with these sorts of alleged crimes and that we are setting the scene for both sides, for both the complainant and the accused, to be able to put their cases for and against in an environment which is less antagonistic and less confrontational than perhaps it has been in the past. I hope this bill does not reflect an increase in the number of these types of offences. If that is the case, it is yet another indication that our community is slipping away from the standards that we all hold dear.

I think it is appropriate that the Longman warning be dispensed with. I cannot see how a delay in bringing the case to trial has anything to do with the veracity of the facts being tendered. I would have thought that the giving of the Longman warning by a judge to a jury — unless it is done in a very careful manner — is bound to send some sort of message to the jury that the evidence being led is a bit suspect.

There is no reason why it need be suspect. There could be myriad reasons for the delay. It simply might have been that the complainant was too embarrassed to bring the case forward. It might be because it has taken a long time to assemble the forensic evidence. In all these sorts of cases there has to be a balance. Not only has justice got to be done to the complainant but we can in no way risk placing the accused in a disadvantaged position, either. I appreciate that the Law Reform Commission took some time to arrive at a concluded view. I am quite happy to see the Longman warning dispensed with.

The provisions included in the bill as to what a judge must do, can do and should do are properly worded to give the judge sufficient discretion to advise the jury in cases where some advice would seem to be pertinent, appropriate and necessary. The bill does away with the Longman warning, which imposed upon a judge a compulsion to advise the jury of the length of a delay, even when in a particular case there might not have been any advantage at all in giving that warning and it may have in a way undermined the case. I am happy with that.

I am less happy perhaps with the provisions that mean that in all cases evidence will be given by a complainant in circumstances where the complainant cannot be seen by the accused. It will be given either via remote television or behind a screen or the like unless, as Mr Strong has already observed, the complainant elects to give that evidence in open court. It will be highly unlikely that the complainant will elect to give evidence in open court. In my heart I would prefer a continuation of the existing system with evidence being given in open court, because that is a tenet of the justice system in this state and evidence is so given unless the complainant makes an application to give it by other means. That provision is included in the act. Evidence can be given by other means upon application and if the judge accepts the merits of the application.

In many senses I was somewhat happier with that than what the government is proposing with this bill, but as I said, I am not going to oppose it and The Nationals are not going to oppose it. I simply express the view that by and large if our court systems are to maintain the very high standards and public support that they currently have, we must as far as possible maintain the concept that evidence is led and given in open court and is not taken by some other means unless there is good and proper reason for it to be so done. I acknowledge that there are often circumstances and occasions when it would be properly done in some other way, but this bill goes the full way and makes that the norm, and I have some reservations about that.

I have no objection to the Magistrates Court having a sexual offences list, but perhaps it is an indication that we are getting more of these types of cases. Perhaps it is an indication of what is happening in our community that we are getting more of these sorts of cases coming before the courts and have to compile a list and make it a speciality, so to speak. That is a sad indictment of our society, if it is so.

This is the fifth or sixth amending bill we have had going to this somewhat delicate subject. I give the government credit and think it is trying to be fair to both sides. Time will tell whether this bill achieves that, but at this point The Nationals are happy to support the legislation.

Ms MIKAKOS (Jika Jika) — I am very pleased to speak in support of the Crimes (Sexual Offences) (Further Amendment) Bill. I note that this bill makes further amendments to the law as it relates to sexual offences following on from the changes that were passed by this Parliament earlier in these sittings.

In particular it seeks to implement a number of very complex recommendations that were made by the Victorian Law Reform Commission in what I regard as its landmark report entitled *Sexual Offences — Final Report*. I note that in his contribution the Honourable Bill Baxter said he was concerned that the government had introduced a number of different bills relating to sexual offences. This is the second bill that specifically relates to this Victorian Law Reform Commission report. A number of other bills have related to entirely different matters — for example, the sexual offenders monitoring legislation and registration legislation. They were really quite different in nature as they related, I guess you could say, to child sex offences.

Whilst the previous bill related to minors, in particular making it easier for minors to give evidence in sexual offence matters, both the previous bill and this bill refer to the Victorian Law Reform Commission report and respond to a concern raised by the commission that there is a tendency for victims of sexual assault not to report offences to the police because of concerns about being again traumatised through the court process.

I particularly want to quote from the Law Reform Commission report, which summarises succinctly the reasons for this bill, the previous bill and also the package of initiatives that were contained in this year's budget, which I shall come to shortly. At page 82 the report states:

> Sexual offences usually involve the exercise of power by one person over another. They are most frequently committed by family members, friends or other people known to the victim. Such breaches of trust make sexual offences particularly traumatic for those who experience them. These factors contribute to the very low reporting rate for such offences, which means that some serious offenders are not prosecuted. People who are sexually assaulted by someone they know are less likely to report the offence than those who are assaulted by strangers.

As a government we acknowledge that victims of sexual assault are the least likely of all offenders to report the crime committed against them. We also acknowledge there are problems with the court processes and the tendency that existed in the past to put more weight on the victim's conduct and behaviour than on the offender's conduct and behaviour. It is that attitude that we have been seeking to change.

We do not make any apology for the fact that we have brought into this Parliament a number of different bills to respond to these issues. They are complex and traumatic issues for their victims. I greatly admire the bravery of those victims when they come forward and deal with traumatic and difficult circumstances that have confronted them. We acknowledge these issues need to be responded to.

The Attorney-General's 2004 justice statement made a commitment to ensuring that judicial and administrative processes should respond to victims with compassion and respect their dignity. During the last seven years we have sought to bring into this Parliament a number of legislative reforms to improve the situation of victims, both in terms of their contact with the criminal justice system and also in terms of access to crimes compensation and to counselling services. That is why I was pleased with the package in this year's budget which seeks to provide $34 million of different initiatives to improve the justice system's response to sexual assault victims, in particular the inclusion in the budget of $6 million to create multidisciplinary sexual assault centres in Mildura and Frankston to bring together sexual assault police investigation units, new female forensic nurses and services, and victims support services.

The budget also included $2.7 million to allow the Office of Public Prosecutions to create a dedicated team comprising a senior Crown prosecutor and an extra four solicitors specialising in sexual offences to lead and manage sex offence cases. The budget also included $4.6 million to provide for a new County Court judge and a new magistrate to create a specialist sexual assault list, as is legislated for in the bill.

As I said at the outset, this bill is seeking to make further amendments to the Crimes Act as recommended by the Law Reform Commission in its final report entitled *Sexual Offences*. The bill has three distinct areas, which I will deal with quickly. As I said before, the way that sexual offences are treated by the courts has changed markedly as a result of reforms already introduced by this government but also in response to changes in society's attitudes about sexual assault. I am pleased that those attitudes have changed and are changing for the better. It is an unfortunate reality that there are often significant delays in the reporting of

many sexual offences. Those delays can happen for a variety of reasons, including embarrassment or fear, which can lead to victims delaying the reporting of those crimes. The Crimes Act states that a trial judge must not suggest to a jury that such a delay makes the witness, or the victim in particular, unreliable. A long series of case law has developed in relation to warnings issued by trial judges to juries, in particular the Longman warning, which relates to a delay in reporting a sexual offence. This will be abolished in Victoria, given that it suggests that a delay detracts from the reliability of the victim or witness and should somehow be taken into account.

It has been found that the widespread use of these warnings serves to perpetuate outdated assumptions surrounding female victims of sexual assault, in particular that women lie about rape and are therefore unreliable witnesses. The purpose of the new provisions is to provide strict parameters around the use of such warnings — for example, a judge will not be able to warn a jury regarding a complainant's credibility unless he or she is satisfied that there is sufficient evidence to justify such a warning. Similarly, a court will not be able to warn a jury about the effect of a delay on the ability of the accused to put forward a defence unless it is satisfied that the accused has suffered a significant forensic disadvantage. No warnings will be made unless a request has been made for such a warning by the accused. These amendments address concerns that these warnings are being given routinely in cases involving increasingly shorter periods of delay and in circumstances where they have not been requested.

It is important to point out that these warnings led to many appeals being made by accused persons, which involves the relitigation of matters, putting victims of crime through additional stress in the process. It is important to point out that at a national level discussions are occurring and an attempt is being made to achieve uniformity on the Longman warning through the Standing Committee of Attorneys-General. However, the government is concerned that it may take some considerable time before national consensus is reached about these issues. In order to ensure that we can minimise the number of cases going on appeal and the number of victims being put through the trauma of further trials, we are seeking to make reforms to these warnings now.

In relation to other matters covered by the bill, and in particular the ability of witnesses to give evidence, I point out that the adversarial nature of the criminal justice system has often had the side effect of deterring victims from reporting offences. The thought of retelling their ordeal in front of an open court, let alone in front of their alleged offender, has been enough to make victims think twice about coming to court. This bill amends the Evidence Act 1958 to create a right for complainants in sexual assault cases to use alternative methods to provide their testimony. The bill will provide victims with an ability to provide testimony via closed-circuit television. The previous bill made this a standard for children. and we are now enabling all victims of sexual assault with the ability to provide evidence through this method.

While these alternative arrangements have been available, most victims were not made aware that this was a possibility. This bill will enshrine the right to use alternative methods of providing testimony for all who require them. Finally the bill includes provisions in relation to the establishment of a specialist sexual offences list in the Magistrates Court to provide greater consistency in the handling of sexual offences. It recognises the inherent difficulty complainants face in dealing with sexual assault. The bill will facilitate specialist case management of sexual offences cases to reduce delays and trauma for victims.

In conclusion, this is an important reform. It is part of this government's commitment to improving the justice system for sexual assault victims. I am very pleased the bill seeks to implement a number of the recommendations made by the Victorian Law Reform Commission. It builds upon the changes we have made to the legislative framework as it relates to sexual assault victims. It comes on top of the package in this year's budget, which I referred to previously. I am very pleased to commend the bill to the house.

Ms HADDEN (Ballarat) — I rise to speak in support of the Crimes (Sexual Offences) (Further Amendment) Bill. This is an important bill in relation to the giving of evidence and the use of screens in the courtroom to protect the complainant victim. That practice was in place when I was in private legal practice from 1984 until 1999, when I represented complainant victims in many cases. However, it was the law, and will be until this bill is passed, that the onus was on the complainant victim to seek permission from the court to give evidence with some degree of protection from the accused. There were not many cases I was involved in in the Ballarat higher court — in the old court in Camp Street — where the request by the complainant victim was refused by the judge, to the judges' credit I must say.

The older courts are much bigger in design than the newer courts. The newer courts are very up close and personal, and I am pleased this bill makes protection of the complainant victim when giving evidence

mandatory. There will be a screen between the victim and the accused to prevent direct eye contact. If necessary, closed-circuit television will be used for the giving of evidence in another room. Those arrangements were implemented for rural hearings in the County and Supreme courts during the time I practised law, from 1984 until 1999, before I was elected to Parliament. This is not groundbreaking legislation, it is just confirming what has been a practice of the courts for some decades.

The purpose of the bill is to amend the Crimes Act to further provide for the use of jury warnings in sexual offence cases where there has been a delay in reporting the alleged offence. It will amend the Evidence Act 1958 to further provide for alternative arrangements for the giving of evidence, as I have just spoken about, in proceedings that relate to a charge for a sexual offence. It will amend the Magistrates' Court Act 1989 to provide for a sexual offences list in the Magistrates Court. This is new. I think it is very timely and will go a fair way to alleviating what is called systems abuse of a complainant victim through the court process when they have to appear in court and give evidence. The bill also amends the Crimes (Sexual Offences) Act 2006 to provide for transitional arrangements relating to this act.

In relation to the amendments to the Crimes Act the bill inserts proposed section 61(1)(b)(ii) to provide for stricter parameters around the warning by the judge to a jury by providing that a judge must not warn or suggest in any way that the credibility of the complainant victim is affected by a delay in reporting a sexual assault unless, on the application of the accused, the judge is satisfied that there exists sufficient evidence in a particular case to justify such a warning. The new provisions inserted by clause 3 also clarify the circumstances in which there can be a warning by a judge to the jury about the effect the delay in reporting of the alleged crime has on the ability of the accused to put forward a defence.

The subsections proposed in the bill provide that a warning relating to forensic disadvantage caused by a delay must not be given unless an application is made by the accused and the judge is satisfied that the accused has suffered a significant forensic disadvantage due to the delay in reporting. The proposed section specifies that no particular form of words needs to be used when giving the warning but the judge must not suggest that it would be 'dangerous or unsafe to convict' the accused because of any demonstrated forensic disadvantage. The case law in relation to the warnings that have been given in past cases is the High Court case of *Crofts v. R* (1996) 186 CLR 427 and *R v. Longman* (1989) 168 CLR 79. These are known as the Longman's warning and the Crofts' warning. The bill also provides that the amendments made in clause 3 apply to any proceeding that commences on or after the commencement of operation of the act, irrespective of when the offence is alleged to have been committed.

The amendments to the Evidence Act are contained in clause 6 of the bill. They provide for the insertion of new section 37CAA. This specifically relates to providing for alternative arrangements for the giving of evidence by a complainant victim in a legal proceeding that relates wholly or partly to a charge for a sexual offence. This proposed section does not apply to child complainants or complainants with a cognitive impairment — they were provided for in legislation passed previously by this Parliament.

As I said at the commencement of my contribution, the new arrangements contained in clause 6 permit evidence to be given by a complainant victim from a place other than the courtroom by means of closed-circuit television or other facilities that enable communication between that place and the courtroom. It also permits the use of screens to remove the defendant from the witness's direct line of vision. It further permits a person chosen by the witness and approved by the court for this purpose to be beside the witness while he or she is giving evidence, for the purpose of providing emotional support to him or her. As I said earlier, I represented complainant victims in the Ballarat County Court who were given the right to be protected from the accused while giving evidence in the courtroom by permission from the judge. As I said, in my view these amendments to the Evidence Act merely put into legislation what has been a longstanding practice, one I experienced in my legal practice in the 1980s and 1990s.

Clause 6 also provides that the court cannot direct that the evidence be given in court unless the prosecution has made an application for this to happen. If a court directs that alternative arrangements are to be made for the giving of evidence by a witness, the judge must warn the jury not to draw any inference adverse to the defendant or give the evidence any greater or lesser weight because of the making of those arrangements.

Another part of the bill amends the Magistrates' Court Act to provide for a specific sexual offences list in the Magistrates Court. I think that is appropriate. It gives statutory recognition to that special list in the Magistrates Court. I think that is more than appropriate given the embarrassing, often intimate and horrendous details exposed to the court by the counsel for the Director of Public Prosecutions and the counsel for the

accused. I think it is very important that we have a special list. We have specific lists for other matters in court like intervention orders. There is, for example, a special building list and a special tenancies list; I think it is appropriate that sexual offences have their own list and that it be streamlined in that manner.

The new courtrooms will be very small. In there you would just about rub shoulders with the accused, the jury, the counsel and the gallery. There often is, as there should be, a public gallery where members of the public, for instance, school students, can watch and learn more about how our legal system operates.

I can remember the days of the magnificent old courthouse in Camp Street, Ballarat, with its parquetry floors; it had a very big courtroom. The accused's box was at the back of the court and his — it was usually 'his' but sometimes 'her' — only direct line of sight was to the judge, as it should be. But in the new design of the courts the accused is in a very different position, so I think it is important that we have these protections legislated for. As I said, in my experience the judges have always been very accommodating of applications made by complainant victims to give evidence behind a screen; often the judge could have had a screen from some of the accused as well!

As to the giving of evidence in a separate room, I remember how the courts at Geelong and the country courts further west in Victoria would bend over backwards to assist when an application was made by a complainant, a victim, to give evidence in a separate room or behind a screen. In my experience as a practising lawyer in the 1980s and 1990s, the courts were always very accommodating.

But now accused persons are very savvy. They often have law degrees or have studied for a law degree during a previous term of imprisonment at the taxpayers expense, so they are well attuned. Or they may have done a psychology degree or an arts degree with psychology, and they are very savvy on how to intimidate a witness, so I think we need the protection given in legislation for a complainant victim. 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 so doing, I thank members for their support of the bill.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

CHARITIES (AMENDMENT) BILL

Second reading

Debate resumed from 14 September; motion of Hon. J. M. MADDEN (Minister for Sport and Recreation).

Ms Mikakos — What will the other side do once you've gone, Chris?

Hon. C. A. STRONG (Higinbotham) — Probably cheer! I will ignore those comments.

The Liberal Party will be supporting the Charities (Amendment) Bill, which is a fairly simple, straightforward and I think extremely useful piece of legislation. It amends the Charities Act 1978 and the Religious Successory and Charitable Trusts Act 1958.

The situation is that when somebody leaves a bequest, they can only leave it to an individual — that is, a real person. You cannot leave a bequest to a cause, as it were. This situation has traditionally been overcome by what are called 'charitable trusts', where people can make a bequest to a charitable trust and that charitable trust can then actually make a contribution to a particular cause or function.

Charitable trusts have been in place for many years, and there are a growing number of charitable trusts which have been set up to take bequests from people who want to leave something to posterity for some good works or for some causes when they have gone. These charitable trusts do a lot of good work. We are informed that it is not really known exactly how much money is out there in charitable trusts, but the figure put around is something like $300 million in Victoria, and a lot of that money flows into many good works.

The other issue involved is the making of a grant to a particular body or cause. If that is to be a tax-deductible grant, in other words something you do not actually have to pay tax on, then that cannot be given to a state body. In other words if you want to donate money, or if the charitable trust to which you have left some money wants to make a tax-deductible donation, it cannot do that if it is making a donation to a government body. I think that is fairly logical and self-evident, and it makes sense. But there are many organisations which are attached to government which would, can and in the past have benefited from donations. We need to think only of things like libraries and art galleries that people like to leave some money to, to support their good works.

But because art galleries, museums and the like may be attached to government there is some uncertainty as to whether any bequests made to those organisations will be tax deductible. This bill makes it quite clear that charitable trusts are able to donate to such bodies and not be caught in this tax trap, and I will explain how that is done in a moment. This highly desirable amendment will allow charitable trusts to be crystal clear about the fact that the money they give to bodies such as hospitals, schools, art galleries, museums and zoos can be gifted and not caught by this linkage to government. The bill does that by allowing them to be defined as eligible entities under the commonwealth Income Tax Assessment Act 1997. In other words the bill makes it quite clear that if you are an eligible entity you can receive a gift from a charitable trust. Under the Income Tax Assessment Act you have to apply to the Australian Tax Office to be declared an eligible entity, and if a hospital or art gallery is declared an eligible entity, the bill makes it quite clear it can receive gifts from charitable trusts.

With that brief explanation of what the bill does I can only say it is a very useful and appropriate bill. The amount of good work that is done by charitable trusts throughout Victoria and Australia is significant. It is to be commended and supported. It is incumbent upon us to make sure there are no impediments whatsoever to this particular activity of bequests and the work, growth and success of charitable trusts. I have much pleasure in commending the bill to the house.

Debate adjourned for Hon. D. K. DRUM (North Western) on motion of Hon. B. W. Bishop.

Debate adjourned until later this day.

ROAD LEGISLATION (PROJECTS AND ROAD SAFETY) BILL

Second reading

Debate resumed from 14 September; motion of Ms BROAD (Minister for Local Government).

Hon. R. H. BOWDEN (South Eastern) — I rise to make a contribution to the Road Legislation (Projects and Road Safety) Bill. The opposition will not oppose the bill, and I want to comment on certain features of it which I think are notable. There are several distinct types of legislative measures in the bill.

Essentially as an overview the bill will provide tougher penalties for drink-driving and drug-driving to give the courts more flexibility in the penalty aspect of dissuading irresponsible people from drink-driving and drug-driving. There is greater flexibility provided in the case of alcohol interlocks so the courts can use them on a wider scale. There is also a considered series of amendments through the bill that will, in the opinion of many, improve road safety for young drivers and inexperienced drivers by requiring them to take certain measures that will give them more experience in what we know is a very difficult environment with high-speed and complex traffic. These measures will be quite helpful. There is also the use of new technology for trucks in a voluntary program called the intelligent access program which I will refer to shortly.

Bills have passed through this chamber and through the Parliament in recent months regarding what is commonly called hoon driving and aspects of it so that police are able to apprehend people who are being irresponsible with their vehicles. The smarties in the community have been able to bypass some of the intended penalties of the legislation, and the aspects relating to the vehicle registration and transfers are addressed.

The bill contains a provision to make it clearer that on the development of Mount Hotham in the alpine resort area there will be access to car parks. The intention is to make sure the orderly development of that important project can proceed with certain assurances relating to car parking and access that are important for that facility.

One of the exciting things in this package of measures is the inclusion of certain legislative measures to assist with the M1 freeway upgrade and the Melbourne City Link improvements, which will include the Monash corridor and so forth. There are several aspects of this,

and I have not mentioned the structures of roads over irrigation and drainage channels and so on.

In the relatively brief presentation that I intend to make on this bill I want to say that the initiatives to increase the penalties on drink-driving and drug-driving and give the courts more flexibility in imposing these penalties are a good thing. The new maximum imprisonment term for drink-driving offences will be increased from 3 months to between 6 months and 18 months. There will also be a corresponding increase available to the courts to increase the penalties for drug-driving. Honourable members will have noticed in the past 12 months since Victoria started drug-driving testing the concerning percentage of positive readings from random tests. They have caused considerable concern. Drug-driving is far more prevalent in our community than we thought it was and should be heavily discouraged. Just as drink-driving is totally antisocial and irresponsible, there is no case whatsoever for drug-driving in the prescribed measures and approach we have in our legislative program.

The courts will be able to make alcohol interlocks mandatory for a driver whose licence is cancelled for a first drink-driving offence involving a blood alcohol concentration of .15 or more. Repeat drink-drivers will continue to be subject to mandatory alcohol interlocks. The imposition of that measure is a good thing, and we support it. The courts will also have the discretion to impose an alcohol interlock condition on a driver whose licence is cancelled for a first offence where the blood alcohol concentration is .07 or more. That is at the court's discretion and will give courts more flexibility. We hope there will be an improvement in road safety over a period of time because the courts have that discretion. Drivers under 26 years of age or those who hold probationary licences who have had a reading of .07 or more will be required to use an interlock. That is good and reasonable, and we support it.

The safety of younger drivers is of concern, because a young and inexperienced driver does not get any real recognition from other drivers in traffic that they are young and inexperienced. Although P-plates are helpful in indicating which vehicles are driven by less experienced drivers, it is awfully difficult to identify them because of crowding and the speed of traffic in some circumstances. This bill includes a requirement of 120 hours of supervised driving experience for learner drivers aged less than 21 before they can apply for a probationary licence. There will be a two-stage, four-year probationary period divided into a 12-month period called the P1 period and a 3-year period called the P2 period.

All this is designed to make sure that new and inexperienced drivers get support and understand the driving responsibilities they are taking on. It is designed to make them appreciate — even if it is subconsciously — that they not only have an ability to use and the privilege of using roads and vehicles, but that they also have a responsibility to learn to be competent drivers and understand their responsibilities for the sake of everyone else who shares the roads with them, no matter where they are. It is good that there will be new restrictions on high-powered vehicles. The interlock program for first-time drink-driving offenders who hold probationary licences or are under 26 years of age is an interesting and supported measure.

I want to pay tribute to a gentleman who passed away several years ago. He was a leading member of Melbourne's legal fraternity for many years. His name was Mr Hartwell, but he was known as Chick Lander. This gentleman was extremely ill, and I visited him a couple of days before he died. We served on a committee called the Supporters of Law and Order. Chick Lander said to me, 'Ron, I want you to do something for me in the Parliament'. I said, 'Chick, what is it?'. He said, 'I am concerned about the excessive representation of younger people and inexperienced drivers on the road. I think I have an idea that could help them'. He suggested that I work towards ensuring that all drivers under 25 years of age should be subject to a blood alcohol limit of .00. There are people who disagree with this and others who agree with it. Chick Lander passed away about five years ago, but I would suggest the .00 limit for all drivers under 25 years of age is worthy of consideration. Since that suggestion came to me under those circumstances, I believe it is a good suggestion and worthy of further consideration. I am a supporter of alcohol interlocks for first time drink-driving offenders under 26 years of age and those who hold a probationary licence.

The regulations in the intelligent access program regarding heavy vehicles are quite interesting. The program will enable the remote tracking of heavy vehicles. It will be voluntary. The use of satellite and global positioning system technology is probably not widely known about. Satellite tracking of instrumentation, engine performance, vehicle performance, vehicle location and other important indicators is widely used by a number of leading national transport agencies. There are safety considerations for drivers and cargo. Performance, efficiency and economic benefits are available through the careful use of this technology.

As long as the privacy considerations are carefully thought through — and an assurance relating to this is

contained within the bill — a proper and intelligent use of this intelligent access program can probably bring advanced economic and safety benefits to vehicle users, particularly those who drive vehicles that are in the heavy category. Because at times there is limited road network infrastructure and a need for us in Australia, including in Victoria, to move more goods for longer distances by road, if this technology and the use of the intelligent access program — which, I repeat, is on a voluntary basis — can provide better efficiencies and more safety for the operators, the cargo and other road users, it will be a good thing. As time goes by we should watch that to see if the benefits come through. I am optimistic that they will, and that is good.

For many years there have been difficulties under the law identifying drivers of particular vehicles when long-established offences are committed, such as running a red light, speeding or some other infringement. Sometimes following the issuing of an infringement notice the process does not get to the penalty phase because when the infringement notice is sent to a registered owner of the vehicle the registered owner either cannot identify the driver of the vehicle, does not identify the driver of the vehicle or inappropriately identifies some other person. There have been instances of unclear identification of the actual driver and the responsible user of the vehicle at the time the offence was committed. This bill enables the registered operator, even if it is a company, to nominate a person who, in its belief, was the person operating the vehicle at the time of the alleged offence. That matter is contained in a series of specific items in the legislation.

For instance, if an offence is committed by a driver who hired a vehicle from a hire company — and some of the well-known hire companies have large numbers of vehicles out on rent — the registered owner of the vehicle is not liable for that offence. They now and will have, under this legislation, a responsibility to be able to nominate who was the registered operator or the person operating the vehicle at the time of the alleged offence.

That is clearer; the responsibility is better delineated, and that is an improvement on the present situation. If a vehicle is stolen and reported as such, or numberplates are stolen and reported as such, the person who was registered and normally linked to that vehicle would have an acceptable reason for not being liable for the alleged offence under the circumstance I just described.

Rebirthing of motor vehicles has been a long-time problem for the insurance industry and for thousands of Victorians each year. Cars are stolen, cut in half, put together and changed around, engines are taken out and other things happen and a whole vehicle is put together in circumstances which amount to absolutely grand theft. It will now be an offence to tamper with the name plate, the identification numberplate inside the vehicle or any labels or markings that are put in place to identify the vehicle clearly. This should deter criminals from stealing vehicles and prevent what the industry calls ‘rebirthing’.

Also, in the situation where a vehicle is impounded by the police under approved legislative arrangements it is not possible now to have the vehicle transferred to a new owner while it is impounded. The registry must note the impoundment, particularly in relation to hoon driver behaviour. That will also be passed to Victoria Police so that those impounded vehicles will still be able to be tracked and properly logged so that potential purchasers of vehicles will have a clear and correct title, so there will be no impediment.

I would like to briefly mention the Mount Hotham alpine resort. The Alpine Resorts (Management) Act 1997 will facilitate a major new development proposed for Mount Hotham. It is necessary in the climate and circumstances in that location to have safe and secure parking arrangements and for access to those parking arrangements to be made available to purchasers and users of the new apartments, developments and retail spaces. The rights to use car parking are to be sold to the purchasers of these new properties and other commercial users. This bill will facilitate ownership, access and safe arrangements and rights for that real estate property, and 99-year leases will be available through the legislative program.

Honourable members know that from time to time I take a healthy interest in the state of our roads. I am delighted to see the West Gate–CityLink–Monash Freeway improvement project is being facilitated through aspects of this bill. This means improvements will be made from the Princes Freeway in the Werribee area right through to the Monash Freeway in the Dandenong area, specifically in the West Gate Bridge area, in the exit on the eastern side of the CityLink tunnels, the Southern Link area, the CityLink–Southern Link and the Monash Freeway.

I have been quite regular in my request of the Parliament to take a good, hard look at the deplorable vehicular capacity of the Monash Freeway in recent years. The widening of the Monash Freeway is to be commended; it is overdue and is an exciting aspect of the bill. The provision in this bill to have the Monash Freeway widened is to be commended. I am fully in favour of it — I just wish it was to be wider than is

proposed. I also think the Princes Freeway to the east and the South Gippsland Freeway intersection on what we call the Hallam bypass could be better too. In the mornings and in the evenings, in particular, the Hallam bypass intersection, where it meets the South Gippsland Freeway, is often jammed. Legislative assistance to get this M1 redevelopment project under way will help. We will then have a more efficient and safer road network with a greater vehicular capacity. It will perhaps not be as extensive as I would have liked, but certainly the road network will be improved, which it desperately needs.

The bill contains a wide-ranging series of initiatives, each one being quite separate from the others. As a package, they are quite supportable. There are things that we are not entirely thrilled with, but I am not going to delay the chamber with a complete breakdown of what those specifics might be. Overall it is a package that the opposition will not oppose. Initiatives in the drink-driving and drug-driving circumstances, with heavier penalties and a clearer regime of being able to make sure those who transgress understand the problems they cause for the community, will increase safety on the roads.

We are certainly supportive of the young driver safety measures. Not everyone in the young driver category might think it is wonderful, but it will and should be a positive assistance to improving road safety, especially for those young people who in some cases do not realise how dangerous it can be to be in control of a vehicle.

The intelligent access program for heavy transport is an interesting initiative using modern technology, and we hope that the efficiencies and safety benefits that can accrue from it, will accrue. We are prepared to give that a go. The owner-onus provisions will make it clearer who is responsible for operating a vehicle at the time of an offence. It might assist to a greater degree than existing methods in overcoming that problem. If it is administratively more efficient for both the owner of the vehicle and the government in tracking offences, that will be helpful.

I hope the community cost of the rebirthing of motor vehicles following thefts will be reduced by the rebirthing provision in the bill, and I am sure it will be. The rebirthing of motor vehicles causes major disruption to people's incomes and lives. Given the worry and stress that the stealing of vehicles causes in our community, if the rebirthing provisions and the vehicle impoundment measures help achieve road safety and security in our community, that will be a good thing. The Mount Hotham amendment is supported because it will help provide employment. It will provide guaranteed security for property owners and assist in providing access to and the development of that area. We support the measure.

Overall we think the bill is one we should not oppose. We think that the legislation should proceed.

Hon. B. W. BISHOP (North Western) — I rise on behalf of The Nationals to make a contribution to the debate on the Road Legislation (Projects and Road Safety) Bill. This is a fair-sized bill. It has about 195 pages in total, and as the Honourable Ron Bowden said, it goes across a wide range of subjects. Our position on the bill will be to not oppose it. Given the structure of omnibus bills, we say there are some good bits in it and some not so good bits. It was interesting that as we consulted on the bill — and as usual we consulted quite widely — we got back responses, as you often do, about the bits that the people in the industries were not so keen on.

I commend the responses from Neil Gow, who is the government relations manager for the Australian Trucking Association. Neil Gow has always been prepared to put a fair bit of work into any of these bills when they come before the house, and he was certainly keen to ensure that we were well briefed from his association's point of view. I have also had some very good responses from our local trucking organisations in response to the intelligent access program part of the bill. In general, as I said before, there are some very good initiatives in here that are all wrapped up in the issue of road safety, which is something I am quite passionate about.

The first thing I will touch on is the process for the implementation of the government's graduated licensing scheme for young drivers. We are quite strong supporters of this, and I will just run quickly through the issues that are involved in it because they are very important. The first issue is an extension of the minimum learner period from 6 months to 12 months for learner drivers aged less than 21 years who apply for a probationary licence. Then we have a requirement for 120 hours of supervised driving experience for learner drivers aged less than 21 years who apply for a probationary licence. I know there has been some discussion on how you would audit that, but I believe goodwill and the thrust for safety in our community will see that is quite reasonably covered.

There will be an improved driving test and a two-stage, 4-year probationary period divided into a 12-month P1 period and a 3-year P2 period. We have a ban on any mobile phone use during the P1 stage, and also a

restriction on towing except for work or when under instruction during this stage. We also have a requirement for a good driving record if drivers are to progress through these licensing stages. Young drivers need to display P-plates. In the case of P1 drivers, they have a white P on a red background, and P2 drivers need to display P-plates with a white P on a green background. We will all know what stage they are at in their driving career.

There will also be support programs for new drivers, parents and supervising drivers, and driving instructors. Restrictions will be imposed on high-powered vehicles, and there will be alcohol interlocks for first-time drink-driving offenders who hold a probationary licence and are under 26 years of age. We agree with all of that. Indeed we would go much further than. We would put in place a 17-years of age entrance requirement for a P1 licence. We do not see this being as big an initiative as people might think because it would link up with our neighbours in New South Wales and South Australia.

It is important that we look at this from a broad perspective. When I have spoken at road safety forums, I know that people from New South Wales who work with their young people say it is better to have them in the car before they can legally drink. They say it is better to train them up that way, with very strong restrictions on them, mind you. If our views were accepted, we would impose very tough curfew conditions, but with a bit of flexibility, taking into account country living. We would also have very tough passenger restrictions, but with some flexibility for individual cases.

I guess that debate extends around two issues: you have to try to balance between on the one hand the dedicated driver operation, where one person is the dedicated driver and they might not drink when people go out to the footy, a show or something like that, against on the other hand a car full of young people who have had a pretty good time — and I suspect that a car full of young people would be one of the highest distractions that you could have when driving. We have become very concerned about that situation, and we think that our proposal is the best way to go on that issue.

The Nationals policy would include pre-licence driver education and training as a mandatory program in our secondary schools. We would do that because we believe the results from these programs of pre-licence driver education and training are quite good. We have looked at the results and the history of the Charlton Driver Education Centre, as well as the ones at Mildura, Alexandra, Shepparton and a number of others. I know there is also one on the Mornington Peninsula. I think Charlton was probably one of the first ones to start up. It was set up by the secondary college and the cluster schools that feed into the education system in the Charlton community because it recognised the importance of pre-licence driver education and training.

It is quite a smart set-up at Charlton. It is a closed road set-up, and it has all the stop signs and all the traffic programs that you would like to see in there. In fact it is so popular and so respected that we see about 1300 students go through that program each year.

The Charlton Driver Education Centre is always struggling for resources, which I think is a sad thing. It is fair to say that when the previous government was in office the centre also struggled for resources. When Mr Baxter was the Minister for Roads and Ports— and when a former member of this place, the Honourable Geoff Craige, held the same office — the centre's program was given solid financial support, and people in that area certainly appreciated their recognition of the good work done by the centre. For three years the Bracks government funded the centre at $30 000 a year. We thought this was great, because it was some recognition of the work the centre does. But then the government pulled the plug on that funding, which disturbed me. I do not know why that happened. The government should have maintained that funding of a lousy $30 000 a year, because in our view the performance of the pre-licence driver education program at the Charlton centre was beyond reproach.

Now, through the generosity of a corporate supporter, some funds are going into the centre and helping to keep its costs down. Obviously the kids who go there have to travel a long way, and sometimes they need to stay overnight, so we are very thankful and praise the generosity of the corporate supporter who has come in to keep the school going.

I have had a fair bit to do with Aust-Link, which runs a driver education program in Mildura. The driving force behind the program is a fellow named Gordon Jennings, who has been instrumental in setting up a training track, chiefly for industrial use but also for driver training. It was built in three stages, and to the best of my knowledge has had no money from the state government. The commonwealth has shown quite reasonable interest in the program and has put quite substantial resources into it. Aust-Link is run by an advisory committee that sits above the process. Gordon Jennings's group sits under that and put the training into place. All the colleges around the area take part in the pre-licence driver education and training process. As I understand it, there is also a lot of cooperation with

VicRoads. One of the best deals we have seen come out of this is the involvement of parents in this particular area of training. I am absolutely sure that all who participate in the program — not only students but parents as well — come out of it as better drivers. I am sure that we could say the same for the programs run at schools in Alexandra and Shepparton, on the Mornington Peninsula and others that might exist in other areas.

The Nationals say that pre-licence driver education should be mandatory in our secondary schools. About 40 per cent of students are able to participate in the Keys Please information sessions run by VicRoads. The Nationals think that is too low and that every student should have an opportunity to go through those sorts of programs, so our policy is for there to be a driver education package, and one of the very strong components of that package is to put in place mandatory pre-licence education and training for young drivers while they attend secondary schools.

There is no doubt that Victoria has done a great job on road safety. There have been many initiatives, including the compulsory wearing of seatbelts, roadside testing of the blood alcohol content of drivers and, more recently, random drug testing. There has been an aggressive run with speed cameras, which some say has been overly aggressive. I think it probably has been overly aggressive, because at times the system has not taken the community with it. However, the debate about revenue raising and road safety will often be had, and the use of speed cameras certainly has affected road safety.

I will have a quick look at some of the issues that have been pulled together in this bill. They are numerous and I do not intend to go them in great detail, but I do think it is important to note that learner drivers and young drivers in particular must have their permits in their possession when they are driving. As the Honourable Ron Bowden said, we certainly support increases in penalties for repeat drink-driving offences and for driving while affected by drugs. Introducing mandatory licence suspension for people who drive with a blood alcohol content of .07 while under the age of 26 years toughens that up quite considerably. We would certainly support a number of issues in the bill, including the increasing of the penalties for refusing a blood test. Obviously we support that.

The bill revamps the owner-onus rules and provides that a vehicle operator can make a statement nominating another person who was driving at the time of an offence. That would be accepted, and a new offence of making a false statement has been introduced. There has already been discussion in the debate about court approval for the sale of an impounded vehicle. Obviously as we move through those particular pieces of legislation there will be a bit of catch-up.

Another part of the bill revamps the compulsory acquisition of land and facilitates the widening and development of the M1 freeway, which the Honourable Ron Bowden has spoken about. There has been a bit of a run in the press about that, and it has been quite interesting to read some of it. Some reports have indicated that early distribution of about $600 million from a $2.9 billion fund does not seem such a good deal. However, I am sure that more of that information will come out in the future.

The bill provides for the relocation of the Great Alpine Road for a road project at Mount Hotham and for VicRoads to grant the Mount Hotham Alpine Resort Management Board a 99-year right of access to a car park being built under the road. Of course we wish that project all the best in that particular area.

I will return to the arrangements made for the Monash and West Gate freeways and the M1 freeway. It is interesting to note the difficulty the government seems to have negotiating with private enterprise, which happens a lot, including the government's negotiations over what I call the slightly faster train project. Costs have blown out from $80 million at the front end to close to $1 billion now. It is an interesting process to see this government struggle in its negotiations with the private sector.

I would like to share with the house the opportunity I had yesterday, along with members of both the Labor Party and the Liberal Party, to make a presentation to the mayors summit run by the Alliance of Councils for Rail Freight Development. It was a good opportunity to put The Nationals' views on policy development and what my party might do if we were in power. I congratulate that group. Its members have done a very good job. In particular I congratulate the alliance's chair, Cr Geoff White, and the deputy chair, Cr Bryan Small, who are both local councillors, and the alliance's secretary, Phil Ruge. I think they have stuck to the task particularly well. They certainly have been frustrated by the government's attitude in playing the blame game on getting our railway lines upgraded and standardised. Their frustration was very clear on Monday. I know that the Minister for Transport was invited to the summit and given the opportunity to pick a day and time, but he did not come. The Parliamentary Secretary for Infrastructure, the member for Brunswick in another place, Carlo Carli, came instead, which was a great

pity, because it would have been a good opportunity for the minister to explain things to those committed people who have done a heck of a good job.

I will give an idea of the commitment shown by members of the alliance. The president of that organisation, Cr Geoff White, flew from Perth to Melbourne and back again to be at that particular forum. I think that shows the dedication of those people, and I urge them to keep up pressure on the government as we look at rail upgrades and standardisation.

The other matter I would like to mention is how this bill puts the responsibility for bridges and culverts back onto the water authorities, as was the case prior to the Road Management Act. Surprise, surprise! That legislation has always been a dog. We voted against it in this Parliament, but it was dragged through with the numbers. Certainly we do not believe it has done anything for roads. We think it has increased the cost, the staff and the documentation to put in place road hierarchies throughout our various municipalities. We thought there was a better way to do it when we opposed it, but it was not put in place. Some of these issues are now clicking up, and we suspect there will be further amendments as more difficulties are associated with the Road Management Bill.

We consulted with the water authorities about the responsibility for bridges and culverts over roads rightly going back to them, and they just shrugged their shoulders and said 'I suppose it is just part of the process'. I guess it is a bit like a lot of other bills: we have seen them come back here to be straightened up many times.

Another issue concerning the Road Management Bill is weeds on roads. On one translation the onus is on local government and the adjoining land-holder. It is quite interesting because there is certainly no way local government can look after weeds beside roads. I believe the responsibility should lie with the government because the adjoining land-holder does not own the land on the road. So there are some greater difficulties involved with that. I will be interested to see what amendments come up in relation to that particular issue as Parliament operates in the future.

Whilst I am talking about those sorts of things I am reminded that we stood in this Parliament a couple of years ago and looked at the chain-of-responsibility bill; Mr Bowden would recollect that. We had the responsible minister stand in this Parliament during the committee stage of the bill and promise that we would have a grain harvest transport scheme in place. To the best of my knowledge, we have now missed two harvests, and the third one is coming up. Probably it will be such a rotten year in most of the grain-growing areas that it may not be necessary, but it is a pity about that good scheme which we put forward very strongly during debate on that bill.

That scheme is based on the experience in Queensland. It has got some really practical tolerances in there for people who load in the paddocks in conditions where you cannot precisely judge the weight by any means — you have different grains and different densities, or you might be loading the truck at night in the dust. The best part about that particular scheme is that it is self-regulating. But the government has not had the will to put it in place. I know The Nationals are disappointed, and a lot of local government people are disappointed as well.

The other issue I want to talk about is the intelligent access program (IAP) proposal put forward in this bill. This proposal came up fairly quickly. During our consultations, while the results were a bit slow to come in for a start, we were certainly alerted to there being some real issues that we were quite concerned about. I will give a snapshot of what we think it will do.

It will introduce voluntary IAP for trucks, which uses modern vehicle telematics and global positioning systems to transmit vehicle performance to a base station run by certified service providers, who will then ensure that the driver and the vehicle are complying with an agreed operating standard, which is an evidentiary standard — and an evidentiary standard which can stand up before the courts is important — and will report that information to the relevant road authorities. It also encompasses extensive privacy provisions.

We are a bit concerned about this. A number of bills that have come into this house seem to indicate that we in Victoria are in a great rush to be first. We have done a number of them. I can remember that we raced in the boating rules, wanting to be first, but no-one seemed to want to follow us, particularly our neighbours over the river in New South Wales. We have been caught out before, so we wanted to have a close look at this. We think it is overly bureaucratic, it is basically impractical, and it would impose huge costs on the industry for very little return. But in a positive sense it is voluntary so people can make up their minds about what they want to do.

During our briefing — and I again commend the officers of the department who always give us an excellent briefing on these issues — we had three major

concerns. One was that it remain voluntary, and I do not think there is any doubt about that. The second was the cost. It is very hard to get a line on the costs, and it is even harder to get a line on the benefits. The third one, which is the most important, is that it would not be mandatory for it to be linked up with higher mass limits. We are clear on the voluntary bit. I want to again commend the officers who briefed our party; they did a great job. When we asked the questions they gave us a sheet which clearly describes what the IAP process puts in place. I will put some of this on the record.

For the calendar years 2006–07 Transport Certification Australia (TCA) will charge IAP service providers a one-off certification fee of $50 and an operation fee of $20 per vehicle per month for an ongoing review and audit. It goes on to talk about the operational fees being paid by the IAP service provider and not by the operators of the vehicles participating in the IAP program. Transport operators will have to negotiate any charges, and they will consider what benefits they get out of it. We are struggling to find them at the moment because no other access details were made available to us.

When we asked what sorts of vehicles are likely to take this up on a voluntary basis we were told — and this part may well be practical — that they would be vehicles with over-dimensional loads or low-loaders or even the big mobile cranes. There may be a place for that, but that is up to the industry to decide. That gives a snapshot of it.

When we came to the benefits and costs part of the briefing we were told that road transport operators who take up the IAP program are expected — the word 'expected' springs out at you — to achieve saving and compliance costs and an improvement in vehicle operating efficiency and that benefits to operators derive from improved vehicle utilisation and greater network access. I am not sure how we would get greater network access or how that would be managed. A regulatory impact statement has been done, and that estimates that the operator costs under the IAP would be $51.8 million and operator benefits would be $235.1 million. Obviously from the findings there is a net benefit, but we really question that and so do our practical transport operators; they reckon that is not on. Those figures are really quite open to challenge.

I will not go through the rest of the description, but I want to refer to a representation made by a road transport operator who came to us after I provided the briefing note in relation to the IAP program. He said:

> IAP is a recipe for disaster. In a similar fashion to many reforms it all starts out with grand visions and the best of intentions; however, as details become clear the intention and technology are not fit for reality.
>
> Firstly and fundamentally the conditions of access to HML were agreed to by all states, territories and industry in the 90s. IAP was never a condition of access.
>
> IAP provides for tracking of the prime mover, however does not have any link with the configuration of the vehicle or indeed the actual mass of the vehicle.

I translate that to mean that you could have a B-double behind the truck with the sensor in it or you could have a two-wheeled trailer that could carry a tonne, so the IAP could not manage that. The operator continued:

> Therefore it is subject to invalid exception reports, and subsequently operators being harassed by the regulatory authority to prove innocence …

He maintained that:

> IAP does not improve compliance in any way for the majority of those that do the wrong thing. It is an added burden for those trying to do the right thing.
>
> IAP will cost the industry multimillions of dollars. It is estimated to cost about $2500 to $3000 per vehicle to install, plus approximately $100 in the initial phase per vehicle, per month to monitor.

Those costs are different from what we were told in the other briefings we have had. There is a real concern in the industry about how that all fits in.

There is another concern which we had not picked up but which the operator certainly had regarding IAP unit failure. One of the people we were talking to said that out of the 80 vehicles the operator generally has on the road about four units are non-functional at any one time, which I understand means that the vehicle should not be operated. We have been concerned that there are a lot of questions outstanding and a lot of non-answers floating around.

I turn to the three issues again. Is it voluntary? Yes, it is. That is proven. We have some real concerns about the costs. We do not know how we can work out the benefits against the costs, so that is an issue. But one of the major issues for the people who came to us is that they do not want IAP linked up with the higher mass limits, which they believe are totally separate. I think I have already explained why that is so. We in The Nationals then approached the minister and requested a note from him to assure us that some of the things people fear will not happen. I thank the minister, his adviser and the department for acting swiftly — and by Jove, it was swiftly. The date on the letter is 3 October, right on the line. I want to put the letter on the public record. It states:

> Thank you for your email of 29 September 2006, in relation to the intelligent access program (IAP).
>
> The IAP is a voluntary program whereby heavy vehicle operators agree to remote tracking (using GPS or other similar devices) of the movement and location of their vehicles to ensure they are complying with agreed operating conditions in return for less restrictive access on the road network than equivalent vehicles that are not tracked.
>
> Applications of the IAP currently under consideration in Victoria include the monitoring of some special-purpose vehicles (for example, all-terrain cranes), over-dimensional or special load vehicles, and vehicles carrying dangerous goods.
>
> While it is understood that NSW and Queensland will be requiring vehicles operating at higher mass limits in those states (including vehicles registered in Victoria) to participate in the IAP, there is no intention to introduce such a requirement in Victoria.

That was signed off 'Peter Batchelor, MP. Minister for Transport'. I again thank the minister for his prompt action. This will certainly allay some of the fears that our people have put up, but there is the issue of this ridiculous cross-border stuff with trucks in Australia running in every state. Obviously we cannot influence New South Wales or other states, and I think it is a great pity that we do not have some sort of organisation to manage that. Again I thank the minister for his prompt action in allaying the fears of a number of operators.

I conclude by saying that this is a typical omnibus bill. It wraps things up in a cocoon of road safety. We would probably have liked to have prised it open and had a better go at it, but it is pretty difficult to do that. Our position, particularly given the minister's letter to me, is to not oppose the bill and to watch very closely to see how it operates in the real world.

Hon. J. H. EREN (Geelong) — I am pleased to speak on the Road Legislation (Projects and Road Safety) Bill 2006. Members would be aware that I am a member of the Road Safety Committee, along with my colleagues the Honourable Barry Bishop and the Honourable Graeme Stoney in this place. To a certain extent it is going to be sad to see them go. This is their last term in Parliament and obviously their last term on that important committee. We have worked very well collectively towards outcomes to reduce the number of lives lost on Victorian roads. It will also be sad to see the Honourable Ron Bowden go. He has a lot of passion for issues relating to roads and has the nickname of Ronnie Roads in this place. In our different ways we all try to make our roads safer. It is obviously something that affects all of us, because members of all of our immediate families drive on our roads. I have two sons aged 20 and 18 who both drive. As a parent I have fears for their safety whenever they venture out in their cars. Certainly the Road Safety Committee is a very important committee that always hopes to achieve a lot.

The objectives of the bill we are speaking on today include reducing road trauma by increasing the penalties for drink-driving and drug-driving offences and expanding the alcohol interlock system. The increasing of penalties for road infringements, of which speeding is an example, has been a success and is having an impact on people. They know that the end result of speeding is not only that it could cost them their lives but that it could endanger other people. They must also think about the dollar factor at the end of it, which serves as a deterrent to speeding. The cameras along the Princes Highway to Geelong have been a huge success, and drivers have slowed down. There has also been a reduction in road crashes involving young drivers. I know the Honourable Barry Bishop has had a real passion while on the committee for educating young drivers, for which I commend him.

The bill seeks to improve the enforcement of road safety with the owner-onus provisions, increased penalties for unlicensed driving and amendments to evidentiary laws. The bill supports the effective operation of hoon-driving laws passed in 2005. We have seen some examples of that in Geelong where a car has been seized. This will hit home quickly to those who want to behave like hoons on our roads.

The bill implements the intelligent access program for heavy vehicles, as well as discouraging motor vehicle rebirthing by introducing an offence for tampering with vehicle identifiers. Modern cars are hard to tackle so far as rebirthing is concerned, but there are many instances where older vehicles are being rebirthed. I know of many cases where people have unwittingly bought a car through the *Trading Post* because they thought it was a bargain but when they have taken it to VicRoads, they find out that someone has tampered with the compliance plates and therefore the police have to become involved. Then there is the process of trying to get to the bottom of the situation.

Some of the cars date back to 1991, 1992 and 1993, and it is hard to get to the bottom of who the car belonged to when it was stolen. It is a painful process. It is usually the battlers who purchase such vehicles for $4000 or $5000 who end up losing their vehicle and have to go to court to try to recover their money. I hope the bill will go some way towards reducing the incidence of rebirthing.

The bill also changes transport responsibility for irrigation structures on roads and drainage channels

from road authorities to water authorities, and also clarifies compensation in relation to VicRoads, which has the power to restrict access on arterial roads.

It is also worth mentioning some of the government's achievements. There has been a community drive, but it is always tough to increase penalties for road infringements. The government did not shy away from losing votes and in having the population get angry about the government raising revenue.

The statistics prove how well some of these initiatives have worked. The Arrive Alive strategy has reduced the road toll by 20 per cent. It is important to note that in 2003, 2004 and 2005 Victoria recorded its three lowest road tolls since records have been kept. Also the government has made great inroads into the Arrive Alive strategy and its target to reduce deaths on our roads by 20 per cent. At the end of 2005 a 70 per cent reduction in fatalities had been achieved, together with positive reductions in serious injury numbers and injury severity, which is good news.

Since the introduction of the Arrive Alive strategy an estimated 360 deaths have been prevented on Victoria's roads. Victoria's road safety performance over the past three years is better than that of all other Australian states, which is good news.

Another issue concerned tackling drink-driving and drug-driving. A statistic that alarmed me, which I did not know of until recently, is that Australia has the highest use of the ecstasy drug per capita in the Western World. Obviously there are a lot of people out there who like to indulge in taking such substances, but they should know that if they do, they will eventually be caught.

Pedestrian safety is another important issue. The government made a tough decision of introducing the 40-kilometre-an-hour school zone program as well as the 50-kilometre-an-hour speed zones in side streets. Obviously that has had a huge impact on fatalities and injuries.

In 2004 pedestrian fatalities had fallen by 32, a reduction of 39 per cent compared with 2001. In 2004 pedestrian serious injuries had fallen by 123, a reduction of 16 per cent since 2001. These indicate that as a government, we take road safety seriously. I have made mention in this place before that the community would find it appalling if there were more than 400 murders a year in the community and would seek action from the government to find a solution.

When people die on the roads, whether they happen to be in a motor vehicle or on a motorcycle, we need to implement tough measures to avoid further such deaths. Obviously there would have been a sad loss of life but the government needs to do everything possible to ensure it prevents, if not totally eliminates, deaths on our roads.

As technology becomes more prevalent in new vehicles I can see a time when car technology will have improved so much that driving on the roads will not be as dangerous as it is today. We are seeing some of that technology being put into cars today, such as impact absorption. It is very different from the steel boxes of the old Valiant cars in earlier days. You could hit a brick wall in such a car and there would only be a slight dent in the bumper bar, but that was obviously not good for the vehicle's occupants because it meant that the energy from the impact was absorbed by the occupants. They are making cars now that absorb energy by crumpling the front end. We will see a transfer of that technology into the newer vehicles, which will hopefully make those cars safer for occupants.

This is a good bill. It is yet another government initiative which will hopefully save more lives in coming years. Believe me this is not an easy task. There is a lot more work to be done but I have every confidence in this government's ability to curb the road toll. This bill will go some way to doing that. I support it wholeheartedly.

Motion agreed to.

Read second time.

Third reading

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

That the bill be now read a third time.

I thank honourable members for their contributions. I also thank the opposition for its support for the bill. It will increase penalties for drink-driving and provide for tougher interlock arrangements and a range of other safety measures which hopefully will mean our roads will be safer.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

HUMAN SERVICES (COMPLEX NEEDS) (AMENDMENT) BILL

Introduction and first reading

Received from Assembly.

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

FUNERALS BILL

Second reading

Debate resumed from 14 September; motion of Hon. M. R. THOMSON (Minister for Consumer Affairs).

Hon. W. A. LOVELL (North Eastern) — It is a pleasure to stand and talk on this bill. At the outset I advise the house that the Liberal Party will not be opposing the bill. This bill will provide for the regulation of the funeral industry. It will regulate prepaid funeral contracts, establish a funeral industry ministerial advisory council, provide for a code of practice for the funeral industry, and repeal the Funerals (Pre-Paid Money) Act 1993.

This bill came out of an inquiry conducted by the Family and Community Development Committee of the Parliament. Normally legislation that has come out of a parliamentary committee inquiry is bipartisan and is supported by both sides of the Parliament. Unfortunately although we are not opposing this bill we are not entirely supporting it. There was a difference of opinion between the government members and the Liberal and Nationals members of the committee. Unfortunately the Liberal Party members and The Nationals member felt it necessary to submit a minority report on that inquiry. I would like to read a tiny bit of that minority report so the house can understand why those members felt the need to do that. It states:

> It is with some regret that the Liberal and National Party members of the family and community development parliamentary committee find it necessary to write a minority report on the inquiry into regulation of the funeral industry.
>
> In general terms, many of the findings and recommendations are supported. However, we do not believe the case was made for the further regulation of the funeral industry and we believe that increased regulation will lead to increased costs, which will ultimately be born by families.
>
> We also believe that such regulation will disadvantage small funeral director operators, particularly in rural and regional areas. In our view this may well lead to business closures and funeral services not being readily available in country areas as a consequence.
>
> Liberal and National Party members also strongly reject the establishment of a funeral industry council (detailed in recommendations 5.3, 5.4, 5.5, and 5.6) which would impose the licensing of funeral directors and an authorised code of practice.
>
> We believe this body would:
>
> impose an unnecessary level of bureaucracy
>
> prove to be enormously costly
>
> impose unnecessary levels of regulation on the sector, and
>
> mean the cost of licensing and compliance would be passed on to Victorian families.

Indeed the government's own submission to the inquiry did not make a case for further regulation of the industry.

The funeral industry in Victoria has been monitored by Consumer Affairs Victoria for complaints-handling processes. The government's submission identified that there have been very few complaints about the funeral industry. In fact, from January 2000 to January 2004 there were a total of 53 complaints about the funeral industry. Some of those complaints were to do with cemeteries and monumental masons, so not all of the complaints concerned funeral directors. Those 53 complaints accounted for 0.2 per cent of complaints received by Consumer Affairs Victoria. The submission notes that most of those complaints were resolved effectively through conciliation. It states:

> The patterns that have emerged from the complaints data do not suggest a significant level of dissatisfaction among consumers in relation to funeral directors' services and the management of funeral funds. In addition, the complaints received by CAV are at a level where most can be managed through conciliation. This data does not suggest systemic industry problems.

The submission notes that many of these complaints were not even considered justified. No action was taken on a number of them and advice was provided on others. As the submission says, this does not suggest systemic problems in the industry.

The second-reading speech states:

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

It is important that consumers are protected, particularly at a time when they may be vulnerable because of their grief. Their grief may lead to a desire to give a loved one only the best rather than making informed and practical decisions. However, it is important that we recognise that most funeral directors in Victoria operate in a professional and ethical manner and do not take advantage of consumers who are suffering grief at the loss of a loved one.

I have a friend who runs a funeral parlour. I once said to her, 'How do you cope? It seems to be such a morbid job'. She said, 'I do not look on it as dealing with death. I look at it as event management. There are people who help people organise a wedding or an engagement in the family and other forms of celebrations. the funeral of someone should be looked at as a celebration of someone's life, not as just the ending of their life but as the celebration of their entire life'. She said, 'It is in the same vein as helping them to organise a wedding or some other celebration in their lives'. I thought it was an interesting way to look at her job, a job I would not want.

There has been some support for this bill because it deals with people when they are vulnerable. The Victorian Consumer Law Centre wrote to the opposition and said:

> The Consumer Law Centre Victoria … is broadly supportive of the increased consumer protections provided by the bill. It is the CLCV's view that funeral providers deal with consumers who are, by reason of bereavement or contemplation of death, highly vulnerable. In those circumstances it is appropriate that there be substantial protections provided to such consumers.

I do not think that any of us disagrees with those sentiments.

The bill provides for the establishment of a Funeral Industry Ministerial Advisory Council, the responsibilities of which will include monitoring the operation of this act and the regulations, the provision of services and developments in the funeral industry and the provision of advice and recommendations to the minister. The ministerial advisory council is to be made up of 9 members, 3 of whom are to be funeral providers, 3 of whom are to be persons who are employed in the funeral industry or who represent persons employed in the funeral industry, and 3 of whom are to be persons who are appointed to represent the interests of consumers or who work in the health industry.

Various bodies have raised some concerns about the make-up of this council. The smaller funeral directors are concerned that the larger funeral directors will get control of the council. Some of the associations that represent the majority of the funeral directors say that they believe they should have additional people on the council. There have also been concerns raised about the fact that this council could end up being controlled by the unions, because three of the persons are either to be employed by the funeral industry or represent persons employed in the industry. I asked directly at the briefing on this bill if they could be union representatives, and I was told yes, that was right. The other concern is about the three persons to be appointed in the interests of consumers or who work in the health industry. Again we could have union representatives of the health industry. We could have six out of nine people on this council actually being from the union. We could have the union movement controlling all the advice that will go to the minister on the operation of the act and the regulations for the funeral industry.

The bill will establish two registers, one of which will be a register of funeral providers that will record the details of persons who carry on the business of a funeral provider in Victoria. The second one it provides for is that the director may establish a register a prepaid funeral contracts. The bill requires funeral providers to offer basic funeral services for which the goods and services to be included will be prescribed. It also requires that funeral providers produce a price list of all funeral goods and services, and that if they do not include the full range of coffins on the list, there will be a separate price list that also lists the full range of coffins that may be made available.

The bill requires funeral providers to give a full statement of all funeral costs to a customer before entering into any agreement with that customer. It also provides that the funeral directors must establish a written document that outlines the procedure for dealing with customer complaints and must include the complaints procedure on the statement of funeral costs. The bill also provides that the minister may recommend that the Governor in Council make regulations prescribing a code of practice which may be prepared either by the director or by funeral providers in consultation with other interested persons to regulate fair trading in funeral practices, including the storage, handling and treatment of deceased bodies.

The Liberal Party wishes to raise a few concerns about this bill that various bodies have raised with us. The first pertains to the ministerial advisory council. I have already talked about the make-up of that council and the advice we were given during the briefing on the bill that it could be controlled by union representatives. We also have had concerns raised with us by the Australian Funeral Directors Association (AFDA). It is concerned

about the make-up of the council and the funding of it, and whether there will be a death tax perhaps or a levy raised on funeral directors to cover the cost of funding this council. I have had advice from the minister's office that there will be no fee for registering to be a funeral provider, but we certainly have not had any advice about how the ministerial advisory council is to be funded and whether there will be levies on funeral directors or whether there could indeed be a death tax to fund that body.

The Victorian Independent Funeral Directors Association has also raised concerns about the ministerial advisory council. It is concerned about whether the members will be representative and impartial. It is also concerned that this ministerial advisory council could become a pseudo funeral industry council, which the government did not support in its response to the paper. One of the main reasons that the Liberals and The Nationals put in a minority report was because they also did not support a funeral industry council being established.

There were concerns that the Funeral Industry Ministerial Advisory Council may be non-representative and impact harshly on small operators. The government needs to look at the make-up of the council very carefully when it makes those appointments. Even the Council on the Ageing has said it is concerned that there is not enough representation of consumers on the advisory council and about the interchange of people from the health industry being there in place of consumer representatives.

The second concern raised with the Liberal Party is the register of prepaid funeral contracts. Certainly concerns have been raised on both sides about this. People have expressed concern that if a register is established it could involve privacy issues and there are concerns that the information available to the public may breach privacy laws or could encourage poaching between operators of prepaid funeral contractors.

I think the register of prepaid funeral contractors is very good. We had an experience in our family when my mother's great aunt died — a maiden aunt. She had not given my mother or her sister the contract for her prepaid funeral. In fact my aunt did not even know that my great aunt had a prepaid funeral. My mother had some recollection of a conversation she had one day where Auntie Vi said to her, 'You girls will not have to worry about paying for my funeral'. My mother raised the issue and said that my great aunt might have had a prepaid funeral contract, but they had no documentation to prove that. Mum's aunt had lived in Geelong and we were in Shepparton and my aunt was in Melbourne. I had a friend whose mother worked at a funeral director in Geelong. We happened to ring Rex's mother and by chance it happened that Auntie Vi's prepaid contract was with the funeral director where Rex's mother worked, so we were able to find that out, but I am sure a number of other families would not have been able to find that information so easily.

F. W. Barnes and Son of Ballarat has written to most members of Parliament expressing concerns over the prepaid funeral provision in the bill. Its concern is not about the register that is about to be established but about the fact that consumers do not have a choice to move between funeral directors once they have purchased a prepaid contract unless they have written into the contract in the first place that they have the ability to change their mind.

F. W. Barnes has said to the opposition that people could enter into a contract some 20 or more years before the funeral is actually delivered, so there may be good reasons why the person may want to change funeral providers in that time. The funeral company lists a few of those things. It says that the funeral director selected may have sold the business or died and would therefore no longer be able to handle the funeral arrangements. Of course it would go to a new operator, but the family may not be satisfied with that new operator.

The second concern is that the funeral director originally chosen has for some reason developed a bad reputation and the consumer no longer has confidence in him or her. The third concern is that a new funeral company has established in the consumer's local area and they prefer the new director for reasons which may include better facilities and/or reputation. It may also be that people move from one area to another and they want to change the contract between funeral providers. That is something that the government, whichever party it may be after November, may look at with a view to amending the legislation.

The Association of Independent Retirees raise concerns about the prepaid funerals register. It said:

> We would generally support the idea of a register of prepaid funerals. This could be useful when families are unsure as to whether the deceased person had undertaken such arrangements and would overcome problems such as confusion due to a change of ownership/name of a particular company. However, the potential danger with a register could be the issue of privacy, meaning that careful monitoring would be needed in relation to access to such records.

Again the privacy issue is raised by the association as a concern. Another issue raised is the fully costed

contract. Some funeral providers have said that trying to provide a fully costed contract for the family would be very difficult as they may not have all the costs at their fingertips. They noted things such as needing to wait for accounts of the cost of advertisements in the paper; outside costs such as the cost of the church, the cost of flowers and other issues that they call disbursements. They believe the fixed price is impossible because they cannot give a final price. There needs to be some flexibility within those contracts for the outsourced services that go with the funeral costing.

Another concern is the inspection powers under the bill. The Australian Funeral Directors Association raise this as one of its main concerns. The association raises the issue of client sensitivity. It says that if a funeral is taking place in the chapel of one of its members, or even if they had a bereaved family there, it would not be appropriate for inspectors to just enter the premises. The association says perhaps there needs to be some arranged time for inspectors to visit a funeral director because we need to think about the sensitivities of bereaved families who may be on the premises when the inspectors want to visit.

Another concern was the term 'basic funeral service'. The Australian Funeral Directors Association raise this as an issue because it said that a basic funeral service provided by one provider may not necessarily be the same as the basic funeral service provided by another. We have heard that there is to be some form of listing of what the basic funeral service is to provide. The association thought it would be better if the bill included a reference to direct disposal service. The government's submission to the Family and Community Development Committee refers to:

> The minimum service available from a funeral director is called the direct disposal service, which includes the transport of a body to the mortuary, a brief conference with the client, the notification of death to the Registry of Births, Deaths and Marriages and obtaining the necessary certificates, transporting the body in a coffin to the crematorium or grave, and committal.

That is a standard service across all funeral directors, and the Australian Funeral Directors Association thought it would be better to have that terminology included in the bill. Others also raise this as an issue and said it was very broad and open to interpretation. Again something more succinct may have been more appropriate to include in the bill.

The code of practice has also been raised as a concern and has received some support in our consultation. It is certainly supported by the Australian Funeral Directors Association, which says that the only feature of the bill that it thinks is essential is part 6, the code of practice. The association states:

> As per the AFDA's initial submission to the parliamentary inquiry, we have always stated that the main focus should be in regard to the storage, handling and treatment of the deceased. If the code of practice will enable regulation of the storage, handling and treatment of the deceased it should be preserved as a matter of urgency.

However, others have raised it as a concern because they feel the code of practice could become a pseudo licensing system and that small operators could be forced out of the industry if the criteria under the code of practice were too strict. One funeral director said it:

> May facilitate regulations tantamount to introducing licensing, which was rejected by the government in its response paper.
>
> Licensing may force smaller country funeral companies out of business, but at the very least would increase funeral costs.

There is a concern about increased compliance costs and cost to clients. There is also concern that the code of practice may force embalming onto the industry. This practice is not widely accepted by the public or the industry in Australia. The funeral director goes on to say:

> Embalming is invasive, costly, time-consuming and unnecessary. Most mortuaries are not equipped for this process and the cost involved to modify mortuaries would be substantial.

There is real concern in country Victoria about this because it has a lot of the small operators — not so much the big players in the funeral industry. When a family is bereaved it is most important that they deal with people they feel comfortable with. Families are more comfortable dealing with a local funeral director than having someone come in from a major city or regional centre that is some distance from where they live to arrange the funeral of their loved one.

During my consultation on this bill I met with members of the Exclusive Brethren. They raised concerns about their ability to continue to provide services to members of their congregation. The Exclusive Brethren have a very simple funeral service and very strict guidelines about how bodies must be treated. The brethren do not join organisations. They were concerned that if the register imposes a fee on them, it would be seen as joining an organisation. The Exclusive Brethren only charges to recover funeral costs. It is not a business, so it does not feel it should have to register. I obtained advice from the minister's office that said:

> The bill will not affect the brethren's ability to conduct burials in accordance with their beliefs. The bill does provide the ability for exemption for a person or class of persons from

> any regulations that are made — for example, the code of conduct. If, when developing a code of conduct, we envisage that the requirements may restrict the ability of the brethren, or other religious or cultural groups, from providing gratuitous or specialised services to its members, then this issue could be addressed through providing an exemption if it is considered necessary and appropriate.

That advice came from Peter Marczenko, the minister's adviser, but I would like the minister to confirm in her summing up that the brethren will be able to be exempted from anything that would be seen to be not in accordance with their beliefs or religion. I would also like the minister to confirm that no fee will be charged to funeral directors to be included on the register of funeral directors.

One last concern I would like to raise is the hefty penalty that is imposed on funeral directors if they fail to advise a change to any of their details on the register. A funeral provider will be required to provide the register its name, the business address of its principal place of business, its postal address, the address of each place of business and 'any other prescribed information' — we do not know what that phrase means; it might be phone numbers, but who knows?

If a funeral provider fails to notify the director of any change to their registration information within 14 days of the change, the penalty is 10 penalty units. That is quite a hefty fine for perhaps just forgetting to notify the register of a change to your post office box number within two weeks. When you are in business you sometimes get extremely busy, and it might not be until you receive something with the old post office box number on it that you realise you should have notified someone of the change to that post office box number. Ten penalty units — which would be in excess of $1000 — seems like a very hefty fine for minor changes to the details on the register.

I have already raised the issue of increased regulation leading to increased costs, but I would like to summarise by reading from the government submission to the inquiry conducted by the Family and Community Development Committee. It concluded by saying:

> There are areas where the existing regulatory framework could be strengthened and possibly expanded to provide additional protection of the interests of the community, consumers and employees involved with the funeral industry. However, increased regulation also means increased costs, and the government would have to be convinced that increased regulation would produce outcomes that would justify those costs.
>
> In summary, the Victorian government would support measures to improve the protection of consumers and service provision in the funeral industry, however, it is important that these objectives are not pursued at the expense of promoting vigorous competition between suppliers in the funeral industry.

Even the government itself, in putting forward this submission, was concerned that increased costs could come out of any increased regulation of the industry. I hope the government has got it right. I hope there will not be increased costs to Victorian families, because, as we all know, the cost of a funeral is significant. I believe the average funeral in Victoria costs around $7000, which is not a small cost item in a family budget. It would be a shame to see those costs rise only because of increased regulation that may have been unnecessary.

Sitting suspended 6.27 p.m. until 8.03 p.m.

Hon. P. R. HALL (Gippsland) — It is my pleasant duty this evening to present the view of The Nationals on the Funerals Bill. I say at the outset that while some issues about this bill have been raised by The Nationals, overall the measures contained in it are sensible and are supported by the industry. I am pleased to indicate tonight to members of the house that The Nationals will not be opposing this legislation.

The bill establishes a level of mandatory regulation of the funeral industry, and in doing so it seeks to improve the relationship between the industry and consumers. The government suggests that people and families are vulnerable at a time when they are grieving for the loss of a loved one and endeavouring to arrange a funeral. The minister suggests in the second-reading speech that there could be unscrupulous providers of funeral services that take advantage of such vulnerability. One could well imagine there could be such a scenario, but in defence of the industry I would like to say to members of the house that during my time as a member of Parliament I have never received a complaint from a constituent regarding anybody who provides funeral services.

The minister said in the second-reading speech that consumers would not wish to make a complaint at a time when they are grieving. I acknowledge that this is an argument, but one would think that if there were a significant issue, a consumer would raise it after a period of time. If they were to raise it with Consumer Affairs Victoria, that would be well and good. Some issues were raised with the Family and Community Development Committee which reviewed this matter. As I said, in defence of the industry I can say that I think most industry operators who provide funeral services are good and decent businesspeople who do the right thing by those who require their services. They deliver a product with responsibility and have care and consideration for the families involved.

I turn to look at some of the aspects of the bill. The bill predominantly seeks to introduce a level of regulation of the funeral industry. Part 2 of this bill establishes a Funeral Industry Ministerial Advisory Council. Clause 4 states:

> (2) The Council consists of 9 members appointed by the Minister of whom —
>
> (a) 3 are to be funeral providers;
>
> (b) 3 are to be persons—
>
> (i) who are employed in the funeral industry; or
>
> (ii) who represent persons employed in the funeral industry;
>
> (c) 3 are to be persons—
>
> (i) who are appointed to represent the interests of consumers; or
>
> (ii) who work in the health industry.

There is an appropriate balance of people to form a ministerial advisory council for this industry. The functions of the council are outlined in clause 5 of the bill, and I will paraphrase them. They are essentially to provide advice to the minister, or investigate matters referred to it by the minister, and to come back to the minister and ultimately the government with advice on matters affecting or impacting on the funeral industry. I think appropriate functions have been assigned in clause 5.

The next major provision is in part 3, which establishes a register of funeral providers. Without quoting the particular clauses, this is a worthwhile measure. I tend to think, 'How is this different from a pure listing of funeral service providers as provided in the *Yellow Pages* telephone directory?'. The provisions in the bill contain little more than what you might find in the *Yellow Pages*, except that it provides a complete list from all telephone districts in one complete register of funeral providers.

Part 3 also establishes a register of prepaid funeral contracts. There is a significant issue in this provision which I will refer to separately later in my contribution. The concept of a prepaid funeral contract is an admirable one and a sensible one. I know that more and more people are prepared to enter into prepaid funeral contracts at a time of their choosing, when they can actually arrange a contract for the delivery of a service that they think would be appropriate for them at that time. I think that is a very handy provision.

The Honourable Wendy Lovell canvassed privacy considerations and related them to a couple of contributions she had received from different people who had contacted her about the issue. The privacy issue is indeed a real one. Although I can see the sense in having a register of prepaid funeral contracts and I can see the sense in that being accessible to family members who are searching for evidence of a prepaid contract, I also acknowledge that it could be open to abuse through providers of funeral services potentially poaching clients from those who are already on the registered list.

It would be interesting to hear if the government has any ideas on how to prevent that from occurring and how to protect the privacy of individuals who have nominated themselves to be part of that register. But, as I said before, the concept of prepaid funerals is an admirable one. Having a register would be very helpful for family members who need to know whether other members of their family, unbeknown to them, had entered into a prepaid funeral contract.

Part 4 of the bill, in particular clause 21, is a requirement to produce a funeral goods and services price list. This is a very sensible provision. As I said before, when people are suffering from grief at the loss of a loved one, what needs to be explained to them in a very clear and distinct way is exactly what costs will be incurred and what services are available to them; they need to understand all that. The provisions in part 4 require providers of funeral services to do exactly that. I think it is appropriate to have those provisions in the legislation.

Clause 21 sets out all of the particular services and goods that are required to be provided in a list of funeral goods and services. Clauses 22 and 23, and clause 24 in particular, set out the requirement to produce and provide a statement of total funeral costs. It is important that people understand and are given documentary evidence as to what the full cost of the particular package of funeral services is going to be. They are very important measures. I might add that many of the funeral directors provide that already, but some probably do not, and a mandatory requirement for the provision of such a statement is a very worthwhile one.

Part 5 regards prepaid funeral contracts, which is an issue I want to return to. Part 5 of the bill is a rewrite of the Funerals (Pre-Paid Money) Act 1993, which is repealed by this bill. I want to canvass in a little more detail one aspect of that which has been brought to our attention.

Part 6 of this amending bill goes to the issue of a code of practice. Clause 45 requires the preparation of a draft

code of practice by 'the director' — that is, by the director of the department administering consumer services. I would expect the funeral industry advisory committee to play a major role in the preparation of this code of practice. I am aware that the Australian Funeral Directors Association and some other industry bodies already have their own code of practice, which they require members to abide by, but not all providers of funeral services are members of those professional organisations, so it is a worthwhile measure to have a mandatory code of practice to be adopted by the industry.

It is interesting to note that clause 45 specifies:

> … a draft code of practice for funeral providers and persons employed or engaged by funeral providers to regulate—
>
> (a) fair trading in relation to the supply of funeral goods or funeral services; and
>
> (b) funeral practices, including the storage, handling and treatment of deceased bodies.

I suppose that covers some of the basic services provided by funeral service providers, but it does not limit the way in which funeral services can be conducted. There is still scope for flexibility to accommodate the needs of the families of deceased people and have funerals conducted in the way in which they think is appropriate and relevant to their loved one who has passed away.

Part 7 sets up a requirement for the establishment of a complaints handling mechanism. It is appropriate that anybody registered as a funeral service provider needs to have a documented complaints handling mechanism, which is to be available to people who are required to use it. That will be a fair and reasonable practice.

Part 8 concerns the issue of enforcement and the inspection of premises involved in the provision of funeral services to ensure that they conform with this legislation. Although there are some lengthy clauses in this bill pertaining to the issue of enforcement, having read through those again I think they are reasonable and appropriate in the circumstances.

They are the main provisions in the bill. I wish to raise what I think is a significant issue that has been raised with us by a number of people associated with the funeral service industry — that is, the transferability of prepaid funeral contracts. In particular I refer to a letter from Simon Mulqueen, the managing director of F. W. Barnes and Son, who are funeral directors operating out of Ballarat, who wrote to all members of the Legislative Council and the Legislative Assembly in a letter of 26 August 2006. The letter first states:

> I understand that the new Funerals Bill is being debated in the Parliament this coming week. The bill, as I understand it, is designed to improve consumer knowledge and choice, whilst consumers engage in securing services in an area which is both sensitive and emotional. I certainly do not have a problem with that and in fact would expect that most funeral directors already comply with much of what the new bill contains.

I particularly wanted to read that because it reinforces what I have said before — that most operators of funeral services in Victoria do the right thing, do it responsibly and do it with care for the family of the deceased person. Although this bill seeks to regulate the industry, the majority of providers of funeral services in this state are already in that category — they are doing the right thing and performing at the level we would expect of them.

In the letter Simon Mulqueen makes a point about the inability to transfer a prepaid funeral from one funeral company to another unless it is explicitly stipulated in the pre-funeral contract. I think that is a valid point. Obviously if you had the knowledge and sense you would ensure that in the pre-funeral contract you entered into there was a possibility that it could be transferred or refunded if you chose not to continue with that prepaid contract, but that is not always the case. As I understand it from this letter and other representations made to The Nationals, that ability is not always there, and if somebody wants to change the provider of their funeral, they can expect to automatically receive a full refund or even a part refund of money they have paid.

On a reading of the full context of the letter from Simon Mulqueen, it seems a very sensible argument to say that there should be an ability to have your prepaid funeral service contract transferred from one provider to another registered provider, if that is your choice. I would expect that there may be some minor administrative charges deducted from the amount paid, but it seems to me logical that people should have the ability to have such a transfer. I would be interested to hear from the minister in her response why the government has not considered that matter, or, if it has, why it has not acted on that request, which has been made by not only Simon Mulqueen but by a number of other funeral directors with whom The Nationals have had contact. This is a major issue that perplexes us to some degree, and a response from the minister would be appreciated.

I want to finish by sending a thankyou to a couple of people in respect of the bill. Our parliamentary library does not always get the pats on the back that it deserves, and in respect of this legislation it provided a

very useful document of a type it calls a 'debrief', which gives an analysis of legislation. The library has recently prepared a debrief on the Funerals Bill in which it provides some explanation of the content of and background to the bill. It was a useful document that anybody interested in the bill should read. I found it particularly interesting to look at the main issues that have been raised publicly about this bill, and I have incorporated some of those into my comments this evening.

The debrief also mentions the inquiry that was commissioned in December 2003 by the then Minister for Consumer Affairs, Mr Lenders, giving a reference to the parliamentary Family and Community Development Committee to review and investigate this matter. The majority of the recommendations made by that all-party parliamentary committee have been adopted in this legislation. In general terms the work of that committee has been useful in determining the content of the bill before us.

Mrs Jeanette Powell, the member for Shepparton in another place and a former member of this place, was The Nationals representative on this committee. Jeanette undertook her duties as a committee member with the absolute diligence that we have come to expect of her, and she was very interested to see this bill come before the chamber with much of the good work of that committee reflected in it. Jeanette Powell has undertaken consultation for The Nationals on this legislation. Again she did it with a great deal of diligence and reported to us that she has spoken to people like Kittle Brothers Funeral Directors, Mulqueen Family Funeral Directors and Peter Cox and Sons Funeral Directors. David Shemilt, who is a representative of The Exclusive Brethren, has also approached her, as he did the Liberal Party, in respect of its particular concerns with the legislation. I was pleased that the Honourable Wendy Lovell was able to read onto the record the response of the government to the concerns expressed by the brethren. I think the explanation given by the government would give some comfort to the brethren in regard to its concerns with this bill.

Jeanette also spoke with people from Horsham and Ballarat, various funeral directors, about the contents of this legislation, and we are able to present a more reasoned response because of the feedback she obtained from the various people with whom she has consulted.

The Nationals will not be opposing the bill. There are a couple of issues, and one in particular, on which I seek a response from the minister, but apart from that the measures in the bill are balanced, reasonable and hopefully will achieve the aims and objectives set out at the start of the bill. With those words I am again prepared to indicate that The Nationals will not oppose the legislation.

Mr SMITH (Chelsea) — Given that I am the chair of the Family and Community Development Committee that received the reference from the then Minister for Consumer Affairs, Mr Lenders, subsequently supported brilliantly by the current minister, the Honourable Marsha Thomson, I am pleased to make a contribution to debate on the bill. It was an interesting reference in that initially we thought it would lead to a dead end, but quite frankly — —

Honourable members interjecting

Mr SMITH — Come on, I had to slip one in! It proved to be quite an interesting investigation into this industry, because it is an industry that is not well publicised in the general community, an industry people do not want to know about until they really need it.

The purpose of the bill is to improve the transparency of the industry and to protect consumers in particular. Most people would not be aware of how the funeral industry operates, or the lack of control or regulation that currently exists within it. For instance, most people would be appalled to know that tomorrow you could set yourself up as a funeral director simply by having a ute and a plastic bag. You might say that is a bit shocking, but it is a fact. That is all you require. Most people would be shocked to know that and would be demanding that we do something to stop it, because if nothing else it is uncivilised. That is one of the areas we have covered in our recommendations.

We have also made changes to the promulgation of information to consumers on price and disclosure, which we think will be very helpful to a lot of people. The committee took submissions from people who were disappointed with the way things had transpired for them. Let us remember that when you are confronted with circumstances in which you have to bury a loved one with very short notice, or out of the blue with no notice — someone has died and you have to look for a funeral director — you do not really have a lot of practice or guidelines on where to go or what to do. You simply look up the *Yellow Pages*, find a funeral director, ring up and make the arrangements.

When you go in, all of a sudden you are in the hands of the director, who asks what you want. You look at all the options, and before you know it you have rattled up significant costs. One couple in particular suggested

that after a very short period of time they walked out of a funeral parlour not knowing exactly what had happened to them and the next day had a $7000 bill, which proved extraordinarily difficult for them to pay. Funeral expenses do not need to be over the top. You can spend a lot of money on a funeral if you are not particularly careful or conscious of what is going on.

As a result of the Family and Community Development Committee's recommendations, the minister has seen fit to require in legislation that funeral directors provide consumers with a list of charges and fees for their service so that consumers can make conscious decisions about what they want and how much those services will cost.

The bill repeals the Funeral Industry (Pre-Paid Money) Act 1993 and replaces it with this bill, which will provide better protection for consumers who pay for their funerals in advance. I was insistent on this particular issue being incorporated into the changes as a result of some personal experience with the death of an auntie on my wife's side who died intestate. Having known the woman, it was almost impossible for me to imagine that she did not have a will somewhere, but no-one could find it. Putting that aside, I thought that if she had prepaid her funeral, who would know? How would we know? There was no automatic register we could go to to find out, or if there was we did not know where to go or how to find it. It seemed to me that we could tidy this situation up through our inquiry.

I also felt that there should be an Australia-wide register. Auntie So-and-so might have lived in Cairns, so you would not know if she had prepaid her funeral. I have no doubt that on occasions some lawyers or funeral directors have been the recipients of some money left with them for quite some time because no-one knew it was there and that that money had been simply rolled over.

In his earlier contribution Mr Hall referred to Mr Mulqueen from Ballarat, members of whose family have been funeral directors for more than 150 years. They are very experienced operators. Mr Mulqueen wrote to us all and suggested that there should be portability of prepaid funeral arrangements. I have to say that I agree; of course there should be. People might change their minds for many reasons — for example, a director may be exposed because of some unsavoury practice and a client who has prepaid their funeral might want to take their money back and put it elsewhere. For whatever reason, they should be able to do that. I would have thought that was a matter the ministerial advisory council could deal with at a later date, but I am reliably informed that that is not necessary, because the Minister for Consumer Affairs can do that now; at any time she can facilitate those changes. It makes sense that, for whatever reason they see fit, people ought to be able to change their prepaid funeral arrangements with a particular director, so I say to Mr Hall in particular and The Nationals in general that government members agree and think we can manage that.

Members of the committee were ably assisted in their inquiry by the staff of the Family and Community Development Committee, the executive officer of which is Mr Paul Bourke. Elizabeth Creed was seconded to the committee from Canberra as a research officer for a short period during the course of the inquiry. She was a fantastic resource, a great researcher and of enormous help to us, so I thank her for her efforts. She did particularly well and went back to Canberra to a bigger and better job, which I suppose proved that point.

Some people would argue that the committee's recommendations did not go far enough and that a lot more could be done to clean up this industry. That point of view has some validity, but overall we found that the industry is voluntarily well run, and that the overwhelming majority of funeral directors are very caring, very sensitive and very compassionate people. Their businesses tend to be run by family members in the main, their companies often have long histories and, by and large, they certainly do the right thing. Funeral directors told us that they support each other, even interstate — for instance, a Victorian citizen might be killed in a road accident in Queensland and the body might need to be transported back to Victoria. It is not unusual for interstate funeral directors to cover the cost of sending a body back. When you think about it, how many industries or businesses would do that? Some funeral directors are aware of those things, and it is quite a compassionate thing for them to do. In particular a lot of families who are confronted with extra costs really struggle.

Also, in Shepparton during the course of the public inquiry submissions were made by some Islander groups — Tongans in particular. They expressed to us their view that they required special services from their funeral directors in the event of a member of their community dying. They said they have a ritual that requires them to attend a body for the first 24 hours. Basically they sing to the body all night. They go through quite an interesting cultural process, but they said they did not have the facilities to do so because none of the funeral directors could accommodate them. At night funeral directors lock up, and basically that is it. As a result of that inquiry, one of the directors

present at the hearing informed us at a later date that he was particularly taken with the needs of these islanders and had decided that he would make his services and, more importantly, his facilities available so those people could conduct their religious rites and ceremonies. I thought that was a fantastic outcome in the circumstances and again demonstrated the sensitivities that a lot of these funeral directors possess.

It is not all positive; there are also some downsides. We became aware that some funeral directors have absolutely disgraceful reputations — no names, no pack drill. Some of them need to be looked at very seriously. By requiring funeral directors to be registered we are setting up a process whereby we might be able to tighten up the industry to the point where businesses cannot operate without being registered. Proprietors might incur penalties or be involved in some indiscretions and, having lost their registration, might not be able to operate. I think it is fair to say that it is a bit hot when a funeral director hits on a widow the day after the funeral, or delivers the ashes of her husband and, finding that no-one is home, leaves them on the front porch. People like that ought to be looked at seriously within the industry. I think it is also fair to say that the public would want us to do that.

One of the more disturbing stories we heard was from, of all places, the Royal Children's Hospital. Stillborn children are put in plastic bags and picked up by funeral directors. Not 1 but 2 or 3 children are picked up in one hit and put in the same plastic bag. They are then put on the back seat of a car and driven to funeral homes. The public at large would be appalled if they were aware of that, and rightly so. We are going to clean that up.

A Muslim man rang me about another incident. He was very disturbed about how he had been treated by a Muslim funeral director. Unfortunately it again involved a stillborn child who was to be buried at Fawkner Cemetery. The family were at the cemetery waiting for the director to come with the baby. He drove up in a car, opened the boot and brought the baby out wrapped in a cloth. He went to the family and demanded payment there and then before he would continue with the service. I know what my reaction would have been in those circumstances!

Not only did he want payment there and then but it was to be in cash — not a cheque or credit card, but cash. He insisted the father go to an automatic teller machine to get the cash. That instance is absolutely appalling and is being handled by the police right now. The tax office could also become involved.

All in all, this is very good legislation. I have digressed a great deal; I did not get time to mention the input of the unions, particularly the Australian Workers Union. However, I commend this bill to the house.

Mr SCHEFFER (Monash) — I speak in support of the Funerals Bill 2006. The funerals business is no business like any other. Funeral operators deal with clients who in most cases are extremely vulnerable and susceptible to a lapse of judgment at a time of bereavement. In setting regulations to govern the operations of the funeral industry care needs to be taken to ensure that clients are appropriately protected. Good funeral providers will also appreciate the value of transparent and well-documented processes to protect them from misunderstandings that could prove costly if mishandled.

The purpose of the bill is to regulate the funeral industry and arrangements concerning prepaid funeral contracts. The bill will also establish a funeral industry ministerial advisory council and industry codes of practice. The bill follows the final report of the Family and Community Development Committee's inquiry into the regulation of the funeral industry, which was tabled in this house in November 2005 by the committee chair, Mr Smith; I take this opportunity to congratulate Mr Smith and the committee on a very well-prepared and interesting report. The bill brings into law some of the recommendations made in that final report.

The committee was asked to review existing public regulation and self-regulation of the industry in Victoria, especially as it relates to planning, health, employee safety and consumer protection. The committee was asked to look at the kinds of complaints that were made about the industry, what the community thought about ethical standards that underpin the industry, broad issues relating to the health impacts as well as occupational health and safety in relation to the people who are employed in the industry.

The committee was also asked to examine issues relating to consumer protection and fair trading and to offer some solutions to the problems it identified, especially in relation to the handling of deceased persons and the standards of funerals so as to ensure that the dead were treated safely and with dignity. Importantly, the committee was asked to look at the community's experience of the funeral industry and how any complaints it has might be best addressed.

The committee made 18 recommendations. As I have said, a number of them are now incorporated in this bill. They include the requirement that funeral directors

disclose to potential consumers their products, services and prices in a clear and consistent manner so they are able to make a fair comparison. As well, a register of Victorian funeral providers needs to be maintained by the Director of Consumer Affairs, and providers will be required to set up a complaints handling procedure, which is to be clearly communicated to consumers so that they understand how they can make a complaint if they want to. The bill also establishes a register of prepaid funeral contracts, which will enable relatives of a deceased person to see whether arrangements have already been made for the funeral of the deceased relative.

The final report of the inquiry into the regulation of the funeral industry makes interesting reading, especially chapter 1, which provides an historical overview of funerals in Victoria since the establishment of the colony. The role of the undertaker in the early 19th century was simply to provide the coffin, and the family of the dead person handled all the other arrangements. The report says that most people died at home, but I wonder how many were injured or died at work and were taken home to die or were already dead. As the population matured during decades bridging the 19th and 20th centuries, undertakers offered more displays, and the style of the funeral became a mark of social status, but, notwithstanding the horse-drawn hearse, the family and friends of the deceased continued to prepare the body and conduct the funeral.

The report maps out the development of the funeral industry from small family-owned businesses to the growth of larger firms that owned a number of individual parlours that competed for a share in the expanding funeral market of the growing state. With the growing sophistication of the funeral industry and the tightening up of the legal requirements that improved public health and guarded against foul play, it became increasingly difficult for the bereaved family and friends to retain control over what had been an intensely personal, religious and cultural experience of death.

The funeral industry became one of the institutions that took over the space between the bereaved and the deceased, and more and more people became estranged from the immediacy and personal significance of death. By way of illustration, Ms Lovell in her contribution earlier in the debate talked about an acquaintance of hers in the funeral industry who said she looked upon her work as not so much dealing with death and bereavement but more as event management.
Ms Lovell said her acquaintance saw little difference between the management of a funeral and a book launch or wedding. I am sure Ms Lovell's friend does an excellent job, but one cannot help wondering how in the end this managerial approach affects grieving relatives, no matter how subconsciously.

The report mentions the development of all-female funeral companies such as White Lady and characterises this as catering for a niche market, and it probably does, but I think the development of firms like White Lady was also a reaction to the managerial and corporate style of the mainstream funeral businesses, which increasingly in their quiet way marginalised families and friends from the experience of death, grief and bereavement. White Lady came on the scene in the early 1980s — about the time that Elisabeth Kubler-Ross's landmark book on death and dying appeared. People will recall that it rapidly became a bestseller, catering to a huge public interest in how the experience of death can be recovered by individuals and families.

Chapter 1 of the report presents a very instructive section entitled 'From death to funeral' and steps through the process from the issuing of the death certificate to the cremation or internment. The section provides a lot of important detail covering the transportation of the body to the funeral operator or via the coroner and mortuary at the Coronial Services Centre. The section discusses the preparation and storage of the body, viewing the deceased, conducting the funeral, what happens after the funeral, and concludes with a brief overview of the funeral activities carried out by the small organisations and communities that conduct non-commercial funerals, which the committee consulted.

They included Muslims and Buddhists, and the report provides a glimpse of how those communities do things differently but which seem to me to have retained more of the human connection to death and dying than has the general community. It is also interesting that there is a bit of a gap. The Jewish community in my electorate has an almost independent way of dealing with the deceased. It is a very sophisticated system that is outside the general system the broader community uses, and it is very effective. It provides a much greater connection between the living and the dead and the processes involved.

The funeral industry plays an important role in people's lives at times of great sensitivity, and it is commendable that Parliament's Family and Community Development Committee conducted its inquiry into the industry and that the government has picked up a number of the committee's key recommendations in the provisions of this Funerals Bill. I understand that the overwhelming majority of people go with the first funeral operator

they contact. This at the very least suggests that they do not shop around and scrutinise very carefully the products that the first operator offers to them. The fact that people typically only come in contact with a funeral operator once every 15 years or so must indicate that they have little direct experience of the market, especially compared to the operator, and must be disadvantaged at the very time they need to negotiate funeral arrangements. All this points to the value of the provisions in the bill because they seek to address some of these concerns.

Besides establishing a register of funeral providers, requiring funeral operators to disclose their prices, establishing and maintaining a complaints process, developing an industry code of practice and empowering the director of Consumer Affairs Victoria to establish a register of prepaid funeral contracts, the bill also establishes a Funeral Industry Ministerial Advisory Council which includes funeral industry employees or their representatives and institutes enhanced Consumer Affairs Victoria inspection and enforcement powers.

The government consulted widely in developing this bill, and its provisions have received widespread support because it will better protect and promote the interests of vulnerable and disadvantaged consumers. This is good and timely legislation, and I commend it to the house.

Hon. M. R. THOMSON (Minister for Consumer Affairs) — I want to speak briefly about this bill and the way in which it came to the house. Firstly, I thank Mr Smith, the chair of Parliament's Family and Community Development Committee, who became quite passionate about this issue and quite forceful about the kinds of actions that needed to be undertaken. I also thank those who served with him and all those who contributed to the report which enabled us to consider the bill that is now before the Parliament and the consultations that have taken place.

There is no doubt that the vast majority of funeral directors are acting responsibly with due care and consideration for not only those who have passed on but also for the families of those who are deceased. Unfortunately there is an element amongst whom extremely bad practices are occurring, and the reason we do not receive complaints in great number is twofold. At the time people are in grief and they try to just get it out of the way, do what they need to do and ensure that they can move on from that grief. People may not report it after that time because no-one wants to feel that little things are interfering with the grieving process or that they should worry about the costs or the details once they have buried someone.

Having said that, we determined that we should at least go for a minimalist approach in legislation and work from that base, so the register of funeral directors is basic information to begin with. However, either through complaints or through the inspection process, if bad practices are occurring or there are concerns, the director of Consumer Affairs Victoria may put conditions on registration and demand further information in relation to particular funeral directors.

In relation to prepaid funerals a question was raised about transferability. Once this bill is passed we will be able, by either regulation or through the code, to ensure that prepaid funeral contracts are very clear about whether or not they allow for transferability so that consumers can make that decision at the time openly and be aware of what the circumstances are of that contract.

Hon. P. R. Hall — Is that your intention, to make them transferable?

Hon. M. R. THOMSON — It is our intention to make them transferable. It is also our intention to ensure that consumers are educated to understand the questions they should be asking before they enter into prepaid funeral arrangements.

The other issue in relation to prepaid funerals is the register itself and how we ensure that privacy is maintained. We will be working very closely with the privacy commissioner on the methodology that is put in place to ensure that the register works for families who are trying to find out whether or not their loved ones have entered into a prepaid funeral arrangement or contract whilst protecting them from disclosure or hounding by people who want to get them to move and so on. Work will be done with the privacy commissioner to protect privacy issues.

These are important issues. No-one wants to feel that they need to worry about these matters when they are in grief. They want to deal with their loved one. It is important that they understand the costs up front so that later they will not feel as if they are paying more for the funeral than they originally were told. It is important that the bodies are dealt with in a sympathetic way and that they are appropriately handled, taking into account the faiths of the people who they are undertaking the preparations on behalf of. All these things are very important.

The establishment of a Funeral Industry Ministerial Advisory Council that is representative is also

important, because certainly in the development of the code it will be required to be involved and consulted to ensure that we are dealing with all practices that need to be covered, that we are sensitive to cultural differences and that we respect those differences. More importantly, it will need to be involved to ensure that we are putting in place basic rights for a decent burial or cremation, that all prices are properly and adequately disclosed and that we ensure that families who are trying to find out whether their loved ones had a prepaid funeral contract or not can do that with great ease. There have been some incredible stories about families who have been quite sure that there has been a prepaid funeral arranged but have not been able to find the documentation to prove it and have therefore had to outlay large sums of money to pay for funerals.

I again want to thank all those who participated in the committee's work and in the work that was undertaken by my department in developing this bill. I thank members for their contributions and wish this bill a speedy passage.

Motion agreed to.

Read second time.

Remaining stages

Passed remaining stages.

STATE TAXATION LEGISLATION (MISCELLANEOUS AMENDMENTS) BILL

Introduction and first reading

Received from Assembly.

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

Second reading

Ordered that second-reading speech be incorporated for Mr LENDERS (Minister for Finance) on motion of Hon. M. R. Thomson.

Hon. M. R. THOMSON (Minister for Consumer Affairs) — By leave, I move:

That the bill be now read a second time.

Incorporated speech as follows:

In the 2006–07 budget, the government announced a raft of tax reductions and concessions increases. The majority were passed by the Parliament in the State Taxation (Reductions and Concessions) Act 2006 earlier this year. This bill contains the remaining state taxation reform measures announced in the budget as well as further reforms to the Duties Act 2000 following industry submissions and the need for clarification. The bill also introduces an exemption across all state tax lines for public ambulance services and in addition provides certainty as to the exempt status of other particular bodies. The bill amends the Public Authorities (Dividends) Act 1983 to define the Melbourne Convention and Exhibition Trust as a 'public authority'. Finally, the bill contains some relatively minor consequential amendments to several acts to improve their clarity.

The amendments to the Duties Act 2000 extend the exemption relating to transfers of property from a trustee to a beneficiary, to confirm the intent of the legislation in relation to transfers to beneficiaries of trusts, while removing prejudicial elements for family trusts. Other amendments will extend the spouses/domestic partners relationship breakdown exemption to property held in companies and trusts, subject to certain restrictions. These amendments will complement the powers of the Family Law Court and the Supreme Court to make orders in respect of property held in company or trust structures on a relationship breakdown.

This extension to current exemptions provided in the Duties Act 2000 relates to property passing to beneficiaries and transfers between spouses/domestic partners made pursuant to a relationship breakdown. It is not anticipated that large numbers of people will be affected by these changes. Nevertheless, they are of benefit to taxpayers and should be welcomed. They are the result of an extensive consultation process conducted by the State Revenue Office. All changes proposed by interested stakeholders were given serious consideration and many were taken up.

The remaining amendments to the Duties Act 2000, which are also reflected in the Land Tax Act 2005 and the Pay-roll Tax Act 1971, introduce an exemption across all state taxes for the Victorian metropolitan and rural ambulance services and clarify the existing exempt status of community health centres, certain public hospitals and health services (within the meaning of the Health Services Act 1988 and the Mental Health Services Act 1986). This will not affect the budget position, as these organisations are exempt or have made specific provision in their budget funding for such tax liabilities. Further, any body that is already exempt under the previous provisions will remain exempt under these new provisions.

In this year's budget, I announced a range of land tax measures that continue the raft of land tax reforms the government has enacted over the last few years. These measures amend the Land Tax Act 2005, the Taxation Administration Act 1997 and the Valuation of Land Act 1960. The changes bring forward the use of land valuations to make them more contemporaneous with the actual land tax year for which they are used. They also abolish indexation factors and so facilitate the use of the same valuations for two years running. Finally, they enable certain land tax payers to object to a municipal land valuation shown in their land tax assessments upon receipt of the assessment notice, provided they have not already objected to that valuation in the previous 12 months. These measures will make the system fairer and more transparent. They ensure that land tax will always be levied on the most current value of the land, and provide increased opportunities to appeal land valuations.

These reforms, coupled with the extensive reductions in rates enacted earlier this year, are important, given the rise in valuations over the last few years. The government recognises both the positive and negative impact these rises can have in the community, and this is why legislation is regularly brought before this Parliament amending these provisions. Indeed this year's reforms bring to over $2 billion the value of announced land tax relief provided in the past three budgets.

The bill also amends both the Land Tax Act 2005 and the Valuation of Land Act 1960 in relation to land tax on electricity transmission easements. The State Revenue Office has consulted with the Valuer-General to determine the most appropriate form of valuation cycle for electricity transmission easements. To this end, the abolition of the use of indexation factors and the bringing forward of the use of valuations will also apply to land tax on electricity transmission easements.

While the rewrite of the old Land Tax Act 1958 last year was very successful, a number of relatively minor issues remained. Consequently, this bill will effect minor changes to the Taxation Administration Act 1997, including the specific requirements for serving notices of assessments on parties jointly assessed. These amendments do not change policy or practice in this area of tax law.

This bill will also amend the Public Authorities (Dividends) Act 1983 to include in the definition of 'public authority' the Melbourne Convention and Exhibition Trust. The government, in partnership with the private sector, is investing in Australia's largest combined exhibition and convention centre. The new Melbourne Convention Centre will accommodate delegates in a flexible 5000-seat plenary hall and will include additional features such as meeting rooms, a ballroom and large-scale catering facilities.

The new facilities are expected to generate a profit in the operational phase of the contract term, and the amendment will provide legislative authority to apply a transparent process for the return by the trust of any surplus funds to the state.

The measures contained in this bill are fair and sensible. They bring balance and certainty where required, they reflect concerns raised by industry and the wider community and demonstrate this government's ongoing commitment to an equitable and relevant taxation system.

I commend the bill to the house.

Debate adjourned on motion of Hon. G. K. RICH-PHILLIPS (Eumemmerring).

Debate adjourned until next day.

CHARITIES (AMENDMENT) BILL

Second reading

Debate resumed from earlier this day; motion of Hon. J. M. MADDEN (Minister for Sport and Recreation).

Hon. D. K. DRUM (North Western) — The Nationals will not be opposing the legislation. I acknowledge the work done by the Leader of The Nationals in the other place, Mr Ryan, in backgrounding the bill. The purpose of the bill will be to give Victorian charitable trusts the legal power to make grants to those bodies with charitable purposes and functions that had previously been precluded from doing so because they had a link to the government. Charitable trusts, which are legal vehicles, allow individuals, families, corporations and organisations to make philanthropic donations. The second-reading speech states that charitable donations to many of our hospitals, for example, make up a substantial part of their entire fundraising. Charitable trusts enjoy a range of tax benefits under current commonwealth law, which is attractive to donors when they are donating to charitable trusts.

As we have heard previously from other speakers, confusion has arisen with charitable trusts which would like to donate to organisations that effectively perform charitable work but which due to the link that they have with government have been precluded from doing so. The bill will define bodies that are eligible at law as charitable entities and will put in place a set of processes that will enable them to be the beneficiaries of charitable trusts. This will certainly help many organisations that rely on donations from charitable trusts. The bill will also legally clarify the situation that some charitable trusts find themselves in at the moment. There has been some confusion as to the legality of recent donations, and the courts have been adding to the confusion by some of their recent findings. The bill has been introduced to clarify the standing of the organisations which will be known as eligible entities. Libraries, museums, the Royal Botanic Gardens and the national gallery, which have previously been the beneficiaries of some of these donations, will be able via a series of tests to satisfy the requirements for them to receive money from charitable trusts.

The bill will not change the legal meaning of charities, or what is defined as charitable at law, for any other purpose other than to extend the distribution powers of the charitable trusts while maintaining their charitable status. The bill will only apply to those trustees who choose to opt in — in other words, trustees who need to execute a prescribed form of deed which expands their distribution powers. They will then have to go through a range of appropriate measures with the Australian Taxation Office as well. Those are additional but only relatively minor amendments that will be put in place.

One organisation I have had a lot to do with recently in the Bendigo region is the Wildlife Rescue Emergency Service. While it is not a government organisation, it is a charitable organisation that effectively does the government's work. That emergency service does what its name suggests — it picks up injured wildlife from the side of the road and is sometimes called out to remove dead carcasses. Effectively it operates as a volunteer charity. It recently got itself organised as a charitable organisation and therefore it will be qualified to receive funding from many charitable trusts.

Currently the government refuses to do the work the rescue service does.

Whenever anybody happens to knock over a kangaroo and leaves a live joey by the side of the road it is the government's responsibility. It is the responsibility of the Department of Sustainability and Environment. People tend to ring local government, VicRoads or the Royal Society for the Prevention of Cruelty to Animals to fix up this problem. The government organisations then ring the Wildlife Rescue Emergency Service, which is a volunteer, charitable organisation. We are currently trying to work with the government to see if it will support this charitable organisation which is doing its work. We hope the Minister for Environment in another place will transfer the resources the government would otherwise be applying to the Department of Sustainability and Environment across to the charitable organisation which is doing the government's work for it. That is an example of a charitable organisation, one which does not have any government links but which hopefully will be able to be the beneficiary of many philanthropic and charitable trusts.

We have no problems with this bill. We hope it clarifies the relationship between government and government organisations which rely on donations to supplement their revenue bases. However, we have a very serious concern that the government is introducing legislation into this place which will mean the public sector and its donations will have to act as a crutch for all of the government's hospitals, all of its libraries and all of its museums. We are concerned that the government will withdraw its funding and continually leave hospitals short of funding and that this will place greater pressure on the ability of these hospitals to go out and get donations from charitable trusts. That is not the purpose of government. With its extreme surpluses the purpose of this government is to fund the health system adequately and to make sure the health system has the resources it needs to deliver quality health services to this state.

We would be concerned if we felt the government was leaving money in its budgetary line items and not putting the substantial amounts of money it should into health, museums and libraries, and that was forcing those organisations to go out and tap into philanthropic, charitable trusts to top up their revenue streams. The Nationals will watch very carefully over the next year or two to see if any alarming trends emerge of the government withdrawing its standard funding from many of these organisations and forcing them to try to get greater percentages of their income from philanthropic trusts. We will be watching that carefully. In the meantime we will be supporting this legislation. We hope it clears up any legal problems.

Ms MIKAKOS (Jika Jika) — I am very pleased to make a brief contribution in support of the Charities (Amendment) Bill. At the outset I want to thank the Liberal Party and The Nationals for supporting what is a very important bill. As we all know, charities play a very important role in the Victorian community by supplementing and amplifying the support of the government and business to meet the varied needs of our society. It is important that we do not underestimate the contribution of the philanthropic sector in our state. The Australian Council of Social Service has reported that the entire Australian philanthropic sector, which comprises over 1200 trusts and foundations, contributes up to $500 million every year to our various charities. That is a substantial contribution by anyone's measure. We know that in Victoria the philanthropic sector plays an important role in many areas such as the arts and in the health sector — for example, in the health sector it is estimated that the Victorian public hospitals receive approximately $15 million in donations from charitable trusts every year. These trusts play a very important role in supporting our community in many fields.

It is important that I acknowledge the important work the philanthropic sector does for our community, and that I acknowledge the important work many hardworking Victorians right around our state are doing voluntarily for our community. In the course of this debate this evening I want to give one example of one member of my local community and the very important work she has done voluntarily for our community and in particular to our local public hospitals. Mrs Ruby Underhill recently turned 90. She is a resident of Preston in my electorate. In fact, she traces her ancestry in the Preston area back to 1860s. Mrs Underhill first began raising money for the Preston and Northcote Community Hospital in 1951, even before PANCH opened in that community. I remember PANCH very fondly because it was the local hospital that my family and I went to when we needed medical assistance, as

did many members of the community. Sadly we lost that hospital in the Kennett years. However, I digress.

Getting back to Mrs Underhill, she was the treasurer of the Preston auxiliary of PANCH from 1954 until the hospital closed in 1998. She coordinated the flower shop at PANCH from 1980 until 1998. She is currently a member of the Reservoir auxiliary of the Northern Hospital in Epping. Despite being 90 years of age she regularly attends the hospital. She catches the bus from Preston to Epping to sell raffle tickets and fundraise for the Northern Hospital and attend the auxiliary meetings and fundraising activities. She was recognised for this work with an Order of Australia medal in 1996. I wanted to give the example of Mrs Ruby Underhill. At 90 years of age she has provided 55 years of voluntary work for the local community by fundraising for local hospitals. This is an illustration of someone who has made an enormous contribution to our local community. I am extremely grateful, on behalf of my local community, for Ruby's service to the community. Over 55 years of service she has helped to raise many thousands of dollars for PANCH and now the Northern Hospital. That is one very clear example of how the philanthropic sector, and the volunteers who underpin it, provides enormous support to the local community and organisations which have government or public functions, such as our public hospitals.

Unfortunately there has been some confusion about the issue of grants to government-linked bodies such as public hospitals, art galleries, museums and so on. These organisations have traditionally been recipients of grants and gifts from philanthropic bodies. The confusion has come about because of the legal principle that a charitable grant cannot be made for the purpose of carrying out a government function. This bill extends the distribution powers of charitable trusts to enable them to make grants to bodies which meet certain tax criteria. I want to digress for a moment and say that as a member of Parliament I am concerned that it is getting harder and harder for our not-for-profit organisations to achieve charitable status under federal taxation legislation and undertake the fundraising activities they do on behalf of the community by being able to claim that tax-deductibility status under federal legislation. I am very concerned about that, the number of restrictions and the difficult criteria that have been introduced by the federal Treasurer, Peter Costello.

This bill came about as a result of the Ian Potter Foundation writing to the Premier earlier this year and recommending changes be made to Victorian legislation. The changes are needed due to the expanded role of government and charities in society, which has made it difficult to clearly distinguish between a government function versus a charitable function. This has made it hard for the philanthropic organisations that are required to comply with the definitions of 'a charity in law' because to continue to make gifts to such organisations could put them in breach of their trust deeds. We all know that trustees of charitable trusts have obligations at law to comply with the terms and conditions of their trust deeds and to make grants for charitable purposes in accordance with those trust deeds, so this has presented a considerable problem for trusts that have sought to make large contributions to organisations that fall into this grey area.

This bill enables charities to give to government-linked institutions or organisations such as the National Gallery of Victoria, Museum Victoria, the Royal Botanic Gardens and to public hospitals such as the Royal Women's Hospital, the Royal Children's Hospital and numerous other public hospitals around the state. But it does not otherwise extend the meanings of 'charity' or 'charity at law'.

It will apply only to those charitable trusts that choose to opt in to the provisions of the bill. It will give these philanthropic organisations the legal power to make grants to parties that would be charities if not for their connection to government. Those that do not choose to opt in will not be affected by the legislation. This bill will also validate gifts to government-linked institutions mentioned in it in a retrospective way to ensure that those grants have been made in accordance with their trust deeds.

This bill will restore certainty and update the law to respond to the reality that many of our public institutions rely on generous bequests and gifts from the philanthropic sector, and they will be able to continue their activities and grow in the future. Without the public and private generosity of the philanthropic sector and of Victorians who support the philanthropic sector, many of these organisations would not be able to provide the excellent services they provide today.

The Bracks government recognizes and acknowledges the contribution that the philanthropic sector and charities play, providing an essential role in the development of Victoria and its society. Many of these large institutions have been built through large corporate and public donations, through public lotteries and subscriptions. The fact that the government facilitates the operation of these institutions now should not compromise their continued service to Victoria in the future.

In conclusion, this bill is an example of how a long and mutually beneficial relationship between government and the philanthropic sector is going to meet the challenges of a changing society and of the support that this government provides for that philanthropic sector to continue to thrive in the future. I commend the bill to the house.

Hon. KAYE DARVENIZA (Melbourne West) — I want to make a brief contribution to the debate on the Charities (Amendment) Bill. It is always a pleasure to speak on a bill that has the support of all sides of this chamber. This bill gives strong government recognition to the very valuable contribution of people who give so generously either in a voluntary capacity working with charities or through philanthropic generosity to our many important institutions, such as hospitals, museums, the arts bodies and others. This bill is about the way trusts are managed and about managing them in a way that really suits, as Ms Mikakos said, the changing times. It is also about recognising and ensuring the continued generosity and work of many valuable organisations in the future.

The bill extends the distribution powers of charitable trusts to enable them to make grants to certain government-linked bodies meeting specific tax criteria, which are not charities only because of their links with government. The bill fully implements recommendations that have been made by the parliamentary Legal and Constitutional Committee in the report on law relating to charitable trusts. It fully implements recommendations 25 and 26 and also partly implements recommendation 31. The bill also consolidates provisions relating to the interpretation of charitable trust deeds.

The bill effectively extends the distribution power of charitable trusts, to enable them to make grants to certain government-linked bodies. Previous speakers have gone into some detail regarding these, such as our many hospitals, museums and galleries. We have all had experiences in our electorates and within the community generally of coming across the valuable work that volunteers do.

In many hospitals in my electorate and those that I have visited across the state there are volunteers doing charitable works and raising money for the hospitals as well as people quite generously giving moneys to hospitals, art galleries or museums. It enables them to make grants to certain government-linked bodies that may not be charitable at law. Ms Mikakos, the lead government speaker on this bill, went some way in talking about what is that link at law. We want to ensure that the grey area that exists currently because of the charities being linked to government bodies is clarified. The bill will not otherwise extend the legal meaning of 'charities' or 'charitable at law' for any other purpose. The bill also goes a long way to validate past grants made by charitable trusts to bodies that could have been made in accordance with their trust deeds but for the bodies' connection to government.

This is a very important piece of legislation. As Ms Mikakos, and Mr Drum from The Nationals, said, it has evolved after consultation with a range of stakeholders including charitable trust lawyers in other states. The Department of Premier and Cabinet has sought specialist legal advice on the operation of charitable trusts, and the department consulted with all departments in formulating this bill. The department has also consulted with the Ian Potter Foundation. Ms Mikakos spoke at some length about the foundation bringing this issue to the government's attention by letter to the Premier.

Many organisations that give generously would not be able to continue to do so if it were not for the generosity and philanthropic works that go on within our community. This bill is good because it clarifies that grey area, and it means that the generosity of so many will continue in supporting those important institutions that are linked with government, such as our hospitals, art galleries and museums. It is a very good bill. I commend it to the house and wish it a speedy passage.

Motion agreed to.

Read second time.

Third reading

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

That the bill be now read a third time.

Acting President, I thank you for your chairing over the many years that I have been in this place, and very competently, if I might say. I thank members for their contributions to this debate.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

ADJOURNMENT

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

That the house do now adjourn.

Aquatic centres: Oakleigh

Hon. ANDREA COOTE (Monash) — The issue I raise on the adjournment debate is for the Minister for Local Government, Ms Broad. It relates to the announcement of the closure of the Oakleigh swimming pool. This debacle is a prime example of the Bracks government and the local government member of Parliament, the member for Oakleigh in another place, not listening to their community.

This saga involves neglect from the local member in another place, Ann Barker, ALP pressure on local councillors and outrage from the local community. Former mayor, mother of seven and Oakleigh stalwart Heather Norlings has led the community in public hearings. The Community Leisure Action Group has passionately spoken out for the retention of the pool.

We have heard the Minister for Sport and Recreation in this place continue to extol on a regular basis the expansion of the number of municipal swimming pools. The constituents of Oakleigh are justified in asking why their local member did not advocate a swimming pool for them. The member for Oakleigh knew about the council's decision to close the Oakleigh swimming pool because of public health and safety and occupational health and safety concerns for a considerable time.

The Liberal Party candidate for Oakleigh, Colin Dixon, said he is disgusted at the state of the Oakleigh swimming pool and wonders why successive Labor councils in Monash have allowed it to deteriorate so badly. It appears that ALP councillors on the Monash council were pressured into changing their votes — —

Hon. T. C. Theophanous — On a point of order, President, the honourable member knows very well that she is not able to come in here and cast aspersions on a member in another place who is not in a position to defend herself in this place. By persisting along this route and suggesting that somehow the councillors were 'pressured' — I think that was the word she used — by the local member, she is going down the track of launching an attack on the local member and she knows in order to do that she should do it by substantive motion. It is nothing more than an attempt to bolster up the Liberal Party candidate in that area.

Hon. ANDREA COOTE — On the point of order, President, I still have some way to go to explain exactly what I was talking about and I ask you, President, to reject the point of order.

The PRESIDENT — Order! The minister is correct that the member cannot cast aspersions on a member in another place, which is to be done by substantive motion, but I ask the member to go to the issue at hand about the request she was making of the minister.

Hon. ANDREA COOTE — As I was saying, the councillors changed their votes and Cr Lake, a caucus leader of the ALP, changed the original report by the steering committee. The mayor, Cr Banerji, changed her vote, as did Cr Dimopolous and Cr Paul Kottek. The only councillor on the steering committee who upheld her convictions was Cr Denise McGill.

Colin Dixon is astounded that the local member, the member for Oakleigh, Ann Barker, has neglected her electorate and has not been seen supporting the retention of the Oakleigh pool. Oakleigh deserves a swimming pool, and I ask the minister to conduct an inquiry into the actions taken by the Monash council in relation to this issue.

Asylum seekers and refugees: visas

Hon. S. M. NGUYEN (Melbourne West) — I raise a matter for the Premier in his capacity as the Minister for Multicultural Affairs. For a number of years I have had a notice of motion on the Council notice paper, which is now no. 19 on that notice paper, asking that the Bracks government contact the Prime Minister and the federal Minister for Immigration and Multicultural and Indigenous Affairs — —

Hon. Bill Forwood — On a point of order, President, I did not hear at the commencement of the member's contribution who he raised the matter with.

Hon. T. C. Theophanous — You should have been listening.

Hon. Bill Forwood — I was.

The PRESIDENT — Order! Could the member advise the house to whom the matter is directed and then continue?

Hon. S. M. NGUYEN — I said at the beginning of my contribution that I would like to raise a matter for the attention of the Premier in his capacity as the Minister for Multicultural Affairs. Over the last few years I have placed a notice of motion on the notice paper to ask the Premier to contact on behalf of

Victorian families who have relatives living in Victoria, the Prime Minister and the federal Minister for Immigration and Multicultural and Indigenous Affairs regarding the 180 families of Vietnamese boat people in the Philippines.

These people in the Philippines have relatives in Victoria who are Vietnamese. They want sponsors. They cannot obtain visas to come to Australia unless their family members live in Australia and many have found it difficult to get a sponsor and apply for a visa. These people are not stateless Vietnamese boat people and are no longer refugees, but they would like to come to Melbourne or another part of Australia. I have raised this matter many times in Parliament and with lots of people.

I ask the Prime Minister to listen to the voice of the Vietnamese community in Victoria and other states. I also want to encourage the Minister for Immigration and Multicultural Affairs to pay attention. These people have a right to settle with their families in Australia. I would like the Premier to take up this issue. This could be my last contribution to the adjournment debate.

Bushfires: Grampians

Hon. J. A. VOGELS (Western) — I raise an issue for the Minister for Environment in the other place. Eighteen senior firefighters from my electorate have called on the Bracks government and bureaucrats from the Department of Sustainability and Environment (DSE) to reassess fire prevention strategies and undertake a major increase in fuel reduction burning. The call by these captains and senior officers follows the disastrous fires in the Grampians National Park last summer. The officers strongly argued for a reassessment of fire prevention strategies in the park, including a major increase in fuel reduction burning.

The state of fire access tracks and the lack of accessible and reliable water supplies in the park are also of deep concern. The officers are calling for a determined cooperative approach from the management of Parks Victoria with significant input from volunteer fire brigades and landowners. We are facing another potentially dangerous summer having experienced another dry winter and water supplies are severely depleted. There is no time to lose. It must be apparent by now that previous fire mitigation strategies have not worked. The current bureaucratic obstacles mean that most of our state national parks have burnt out since the election of the Bracks government. The fire operations plans are not working.

Following the disastrous bushfires of the last few summers, it is time for the Bracks government and the minister responsible to wipe the slate clean and start again by consulting key stakeholders. The action I seek from the minister is to instruct the management of Parks Victoria and DSE to get on board with local stakeholders — the people who live in the areas and know best — to hopefully prevent the burning of the other 50 per cent of the park which was not burnt last year, so that land-holders whose land adjoins these parks do not have a fire disaster caused by the mismanagement of those agencies. Such a move would meet with widespread support not only from the 18 senior fire officers who have written to me but also from all volunteer firefighters and landowners in the region. As this group has said to me, a proper balance must be restored so that our requirements for fuel reduction burning are given a much higher priority and are not allowed to be overruled by other interests, as they have in the past.

Fishing: commercial licences

Hon. P. R. HALL (Gippsland) — Tonight I wish to raise a matter for the Minister for Agriculture in the other place. The matter regards applications for ocean fishery access licences. Two separate applications were made to the Department of Primary Industries for ocean fishery access licences by my constituents Mr Oliver Danvers and Mr Vito Albanese, both of Traralgon. Mr Danvers applied on 15 August 2006 for an ocean fishery access licence and the transfer of a scallop ocean fishery access licence. On the same date Mr Albanese applied for a ocean fishery access licence and the transfer of a Corner Inlet fishery access licence. I have spoken with both of these gentlemen, and I am convinced they have undertaken all that is legally required of them to meet the eligibility requirements for the granting of these licences.

Some of these requirements include: the sitting of a test to demonstrate competency; meeting eligibility requirements regarding being a fit and proper person to hold such a licence, and the lodgment of certain fees. The applications by Mr Danvers and Mr Albanese were refused. They were advised of this by letter from Dr Peter Appleford, the executive director of Fisheries Victoria. The reason the applications were not successful was simply because of the revocation of ministerial orders which were granted under the Fisheries Act.

I will quote from a letter addressed to Mr Danvers. An almost identical letter went to Mr Albanese. The letter says:

> … The ministerial direction was revoked by the Minister for Agriculture on 13 September 2006 under section 62 of the act …

The simple reason for the refusal of the applications was that the rules changed between the time the applications were made and the time they were considered by the minister. Both applications were lodged on 15 August. If the ministerial directions had not been changed on 13 September, then I have no doubt that both applications would have been granted. I think it is totally unfair to both gentlemen that the goalposts have been moved and the rules have been changed. I do not believe they have been treated fairly.

I request that the minister consider the applications under the rules and law which applied at the time the applications were lodged. I ask him to reconsider these applications and to bring about a fair and just result for both these gentlemen.

Disability services: program funding

Hon. DAVID KOCH (Western) — I raise a serious matter for the Minister for Health in another place concerning lengthy delays for families seeking assistance under the Acquired Brain Injury — Slow to Recover program funded by the Department of Human Services. The program is designed to help people who have experienced catastrophic brain injury and are not in receipt of compensation but require high-level care, such as that provided in an aged care residential facility where long-term support is required. This program has been successful in achieving its objective of providing rehabilitation support for highly dependent people with severe acquired brain injury and helping them back into their communities. Without the program, many of these patients would inappropriately remain in aged care residential facilities or acute care hospital beds. But, while the program helps families in caring for a loved one, there are problems in accessing the funding.

I raise the case of a teenage girl from Hamilton who was admitted to the Hamilton base hospital in November 2005 and then transferred to the Royal Children's Hospital, having been diagnosed as suffering from encephalitis. The young lady has remained in an acute ward in that hospital for the past 10 months. Regrettably her parents have been advised that Hamilton base hospital does not have the capacity to care for their daughter due to limited funds for such specialised care. The family would love to bring her home, but the costs of modifications to their home are currently prohibitive.

While their daughter is now receiving therapeutic support, her parents continue to wait for funding under the Slow to Recover program that will allow her to move to a suitable rehabilitation centre with the ultimate aim of her returning home. It is extremely frustrating and distressing for her parents to be told they may have to wait another 18 months for the funding, even though their daughter has already been assessed and meets the eligibility criteria for the program.

This young lady requires high-level support, and although she is currently in hospital her parents have given up their jobs in Hamilton to be with her 24 hours a day in Melbourne, helping to provide her daily needs. Understandably the family is under extreme emotional, physical and financial stress and dreads the prospect of having to wait another 18 months before their situation improves. The action I seek is: will the minister intervene to help this family in its time of crisis with an act-of-grace payment, thereby allowing their daughter to access more suitable rehabilitation that will enable her to return to Hamilton?

Housing: affordability

Ms ROMANES (Melbourne) — I raise with the Minister for Planning in the other place, Mr Hulls, an issue that has been raised with me by Rob McGauran, who is a prominent Melbourne architect. He is a contributor to the community in many ways, in particular as a board member of Melbourne Affordable Housing. Mr McGauran has raised with me the issue of lost opportunities for affordable housing as councils undertake their structure plans. He maintains that some councils have facilitated affordable housing as part of their structure planning processes. Much could be achieved if, when all structure plans are being done, attention were given to creating opportunities for affordable housing partnerships. It is his view that it should not be left to chance and the individual interests of different councils; it should be incorporated into a policy directive that affordable housing be considered as part of the overall objectives of the structure planning processes. I request that the Minister for Planning give serious consideration to the suggestion of Mr McGauran.

Disability services: client placement

Hon. BILL FORWOOD (Templestowe) — The matter I wish to raise is for the attention of the Minister for Community Services in the other place. It is the case of Ross Memery, who spent 34 years as a client at Kew

Residential Services before a year ago being moved to a community residential unit. I have received an assessment from the Centre for Developmental Disability Health Victoria, which was done in May this year. It says:

> … he should easily be managed in the standard community residential unit … He is, however, a passive individual who is vulnerable to more aggressive clients in his household with the potential for this to impact on his quality of life. I would recommend that this be considered when discussing future placement options for him.

Ross Memery is capable of living a good quality of life in the community. Unfortunately he has been placed in the house with 5 other clients, 2 of whom have really high medical needs and 1 of whom is very aggressive. This causes significant concern for Ross, to the extent that his skills have declined in the 12 months he has been living in the community. I understand how difficult it has been for Kew Residential Services to place their clients in the community and to get the mix right, but I am certain that this is a case that needs to be reviewed. I am asking the minister if she could urgently do this. There is no doubt in this case that Ross, with his moderate needs, has been placed in an environment where there is no assistance for him because of the high needs of other clients there and where, because of his passive nature, he is at risk from aggressive clients sharing the house.

This is one of those cases where I ask the minister if she could get the department to have another look at it. The one slight concern that I have about this matter is that I think this is one of the cases where a family member genuinely raises an issue but is seen by the department to be a troublemaker. I would hope this is a case where the department can have a fresh and open look at the situation and come up with a rational decision based on the facts of the case and without prejudging the perceived behaviour of other members of the family. I understand how difficult this process is and I absolutely support the best bona fides of the government in doing what it is doing. I hope the department can have a look at this case again.

State Revenue Office: litigation

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — I wish to raise a matter for the attention of the Treasurer in the other place. It relates to the conduct of the State Revenue Office (SRO) in litigation and disputes with Victorian taxpayers. It is a matter that I raised previously with the Treasurer at the 2005 estimates hearings of the Public Accounts and Estimates Committee following a complaint from the Law Institute of Victoria. The matters the law institute complained about are still issues with the SRO's conduct to date.

The particular matter I raised with the Treasurer was the case of Mr Richard Harrison, who applied for a first home owner grant from the State Revenue Office and whose application was rejected. Mr Harrison then applied for an administrative review of that decision by the SRO. That review was also rejected, and he then took the matter to the Victorian Civil and Administrative Tribunal. At the VCAT hearing Mr Harrison chose to represent himself, and the SRO was represented by a Queen's Counsel, I understand. Mr Harrison said that during the hearing the SRO employed slick tactics to delay and cause unnecessary inconvenience to the hearing of the case. Ultimately Mr Harrison was successful in the hearing at VCAT and an order was made in his favour.

The SRO then appealed to the Supreme Court. Mr Harrison again represented himself in the Supreme Court and the SRO was again represented by counsel. There were more delays and slick tactics from the SRO, but Mr Harrison was ultimately also successful in the Supreme Court, with an order being made in his favour, against the SRO's Queen's Counsel, on 28 June.

Hon. T. C. Theophanous — He should have been a lawyer!

Hon. G. K. RICH-PHILLIPS — Yes, he should have been a lawyer, Mr Theophanous. Since then there have been disputes with the SRO on the issue of costs. Because Mr Harrison represented himself there were no costs for counsel and his costs were in the order of $7000 purely for his solicitor, as opposed to the SRO's costs, which would be substantially more than $7000. The SRO is refusing to pay the $7000 that Mr Harrison has requested. The matter has been back and forth, and the final offer is in the order of $5000, which is a thousand dollars short of the amount that Mr Harrison has said he would accept. Having spent possibly $100 000 of taxpayers money defending a case where ultimately it was found that it had made a decision in error, the SRO is now quibbling over a thousand dollars and the matter is to go back for a decision by the court.

I ask that the Treasurer, as the minister responsible for the SRO, intervene and bring some fairness and sense to this matter. The fact that appealing on costs will cost far more than the thousand dollars it is quibbling about again demonstrates the poor performance and conduct of the State Revenue Office in these types of matters. I ask that the Treasurer intervene and ensure that the full amount is paid and that this matter does not go back to court.

Rail: Mildura line

Hon. B. W. BISHOP (North Western) — My adjournment issue this evening is directed to the Minister for Transport in the other place, the Honourable Peter Batchelor. In the 2000–01 budget the Bracks government announced it was allocating $96 million to upgrade and standardise the state's rail network, with the Mildura line to be completed by 2002 and the balance by 2005. That is well documented. Somehow linked with that were the election promises by the government and the honourable member for Mildura in the other place that the passenger train would soon return to Mildura. The year 2002 came and went, as did other years, with not a spike being driven, even though the issue was raised on a regular basis in an attempt to get the process under way.

I must commend the Alliance of Councils for Rail Freight Development, and particularly the chair, Cr Geoff White, the deputy chair, Cr Bryan Small, and the secretary, Phil Ruge, who stuck to the task with great commitment. I know they are just as frustrated as I am with the lack of action. Indeed they showed that frustration at a forum of the mayoral summit for rail freight development, which was held on Monday of this week. I encourage them to keep up the good work. Unfortunately the government and its two independent supporters then played the blame game, blaming the past government, Freight Australia and then of course Pacific National, which now leases the line, rather than getting on with the job.

My real concern is that, if the very real poor condition of the track is not addressed now, we will soon see the viability of the track at risk, which is the last thing we all want to see. Inaction and the closure of the railway line would be a tragedy for north-west Victoria, as we have a world-class mix of road and rail opportunities, using road to accumulate products, particularly horticulture and wine, in state-of-the-art cool stores and then into containers, some of which are refrigerated, for the daily trip to the port of Melbourne.

Given that a train a day travels from Merbein to the port of Melbourne we have sufficient traffic, particularly when we have rapidly expanding horticultural production plus the grain freight, which, while it must be down this year due to drought, will come back stronger than ever in the future. The real ask is that the line be upgraded — a reasonable request — to allow a shorter than 24-hour turnaround, which would inject huge efficiency gains into the rail freight sector. Currently it is a 17-hour one-way trip. The action I request from the minister is to immediately begin the upgrading and standardisation of the Mildura line before it becomes unusable.

Responses

The PRESIDENT — Order! I call on the Minister for Energy Industries to respond.

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — Thank you, President. This is probably the last time I will respond on the adjournment while you are President, so I guess you have something to look forward to.

A number of matters were raised. The Honourable Andrea Coote raised a matter for the Minister for Local Government concerning the closure of the Oakleigh pool. Mrs Coote made claims about the reason for the closure of that pool and sought to cast aspersions on various people. I will simply take the action of passing it on to Minister Broad for an appropriate response.

The Honourable Sang Nguyen asked me to pass on a matter to the Premier in his capacity as Minister for Multicultural Affairs. I must say as a member in this place that Sang has represented the Vietnamese community, and it has been an important step forward for that community to have him here. He raised a matter for the Premier in relation to the 180 Vietnamese boat people who are currently in the Philippines and seem to be unable to access any of the processes for entry into Australia. He has asked that the Premier contact the Prime Minister and the responsible federal minister to in some way seek assistance for these Vietnamese boat people. I will pass his request on to the Premier for action.

The Honourable John Vogels raised a matter for the Minister for Water in the other place in relation to fire prevention strategy. Fire prevention is a big issue for us all. I hope the member was not simply trying to make political capital out of something as important as fire prevention, because we are all in the boat of trying to ensure that we do not have fires, and this season in particular is a difficult one. I will simply pass his request on to the relevant minister for direct response to the member.

The Honourable Peter Hall raised a matter for the Minister for Agriculture in the other place in relation to a request for the minister to reconsider two applications that have been made for ocean fishery access licences. I will pass that request on to the Minister for Agriculture for response to the honourable member.

The Honourable David Koch raised a matter for the Minister for Health in the other place in relation to the

Slow to Recover program, and specifically in relation to a teenage girl from Hamilton. I will certainly pass that matter on to the Minister for Health for response to the honourable member.

Ms Romanes raised a matter with me for the Minister for Planning in the other place in relation to something which had been raised by Mr McGauran, relating to the issue of portable housing partnerships and whether they could be implemented in a way that increased our capacity to provide public housing. I will certainly pass that on to the Minister for Planning for consideration.

The Honourable Bill Forwood raised a matter with me for the Minister for Community Services. It relates to Mr Ross Memery, a resident of Kew Residential Services, who had been there for some time in its earlier configuration. Mr Forwood made the point that he believes Mr Memery is capable of living with a good quality of life but is restricted in his current housing arrangements. Mr Forwood has asked that consideration be given to shifting Mr Memery. I will pass the request on to the Minister for Community Services for her consideration.

The Honourable Gordon Rich-Phillips raised with me for the attention of the Treasurer a matter about the State Revenue Office. In particular he referred to Mr Richard Harrison, who he said had applied for a first home buyers grant, with the matter eventually finishing up in the courts. I will pass on the matter to the Treasurer for consideration.

The Honourable Barry Bishop raised a matter with me, and I am not sure if it will be his last one — —

Hon. B. W. Bishop — It will be, Mr Theophanous.

Hon. T. C. THEOPHANOUS — Mr Bishop raised a matter for the attention of the Minister for Transport in another place about the Mildura railway line, including the condition of the track and other things about the service up to Mildura. Of course I will pass the request on to the relevant minister for response. I simply make the point that we are very proud to be able to be part of delivering services to Mildura, which was not a high priority of the previous Kennett government.

Motion agreed to.

House adjourned 9.56 p.m.