PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-FIFTH PARLIAMENT

FIRST SESSION

7 October 2003

(extract from Book 2)

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By authority of the Victorian Government Printer

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

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TUESDAY, 7 OCTOBER 2003

Tuesday, 7 October 2003

The PRESIDENT (Hon. M. M. Gould) took the chair at 2.02 p.m. and read the prayer.

ROYAL ASSENT

Message read advising royal assent to:

23 September

Albury-Wodonga Agreement (Repeal) Act

30 September

Confiscation (Amendment) Act
Commonwealth Games Arrangements (Governance) Act
National Environment Protection Council (Victoria) (Amendment) Act

QUESTIONS WITHOUT NOTICE

Commonwealth Games: athletes village

Hon. PHILIP DAVIS (Gippsland) — I direct a question without notice to the Minister for Commonwealth Games. I refer to the minister's claim that he received a quote from P. J. Scott and Associates in June 2002. Is the Minister aware that P. J. Scott and Associates was deregistered by the Australian Securities and Investments Commission on 3 July 2001?

Hon. J. M. MADDEN (Minister for Commonwealth Games) — I welcome the member's question because I would like to clarify the remark the member made as I find it quite bizarre that the opposition should even want to consider this option, because when it was in government it was not prepared to consider any other options.

As I have mentioned before in this chamber, P. J. Scott and Associates quoted a cost of US$50 million, or A$80 million, for one month's lease of three ships, to provide a total of 6049 berths on the *Golden Princess*, the *Marco Polo*, and the *Millennium*. P. J. Scott and Associates was recommended to government by Barwil Agencies, one of the most respected shipping agencies in the Oceania region. P. J. Scott and Associates worked with Barwil Agencies to provide eight ships used by the Sydney Organising Committee for the Olympic Games for accommodation purposes, not athlete requirements, during the Sydney Olympic Games.

I understand P. J. Scott and Associates is currently engaged by the Athens organising committee to assist it in delivering significant cruise ship accommodation for the forthcoming 2004 Olympic Games. The projected cost advised by P. J. Scott reflected a number of issues including the fact that the ships would be needed for a further month in order for the necessary fit-out and conversion to occur, thereby increasing the cost to the state even further. These estimates were in the same — —

Hon. B. N. Atkinson — On a point of order, President, the minister is clearly reading this entire answer to the question.

Honourable members interjecting.

Hon. B. N. Atkinson — Thanks, rabble!

The PRESIDENT — Order! We do not need those sorts of comments. I ask Mr Atkinson to raise his point of order with respect to the minister — —

Hon. Bill Forwood interjected.

The PRESIDENT — Order! Mr Forwood! I ask Mr Atkinson to raise his point of order.

Hon. B. N. Atkinson — Certainly, President. As I was trying to suggest to you, the minister is in fact reading the answer to the question and I have no objection to that. I simply point out that this is not an answer to the question but rather a ministerial statement that the minister is making in respect of matters pertaining to a company that has been mentioned in the question. This is a ministerial statement. The minister ought to table that as a ministerial statement, not as an answer to a question, and indeed he ought to get on to answer the question, which is: when did he become aware that P. J. Scott and Associates was deregistered?

The PRESIDENT — Order! There is no point of order. The minister has been responsive to the question from the Leader of the Opposition.

Hon. J. M. MADDEN — If opposition members care to listen and follow the information that I am giving them, they will appreciate the significance of it. They would also appreciate that the limited number of vessels of sufficient size to accommodate 6000 athletes and officials is a significant risk. They would also appreciate that that could seriously jeopardise Melbourne's ability to host the games.

Opposition members would also appreciate, if they did not wish to display their ignorance which they are prone to do from time to time, that in the bid document

they submitted as a government there was no mention of any cruise ships. They nominated the current village site.

For the opposition to consider any other alternative at this point in time is absolute hypocrisy. We in this chamber would all appreciate that opposition members are prone from time to time to display their hypocrisy.

Hon. Philip Davis — On a point of order, President, the minister well knows that he has no ability to debate the question during a question without notice. My point of order is that he has been unresponsive to the question that I raised, which was: was the minister aware that P. J. Scott and Associates was deregistered by the Australian Securities and Investments Commission on 3 July 2001? The minister has not responded in any way to the question before him.

The PRESIDENT — Order! The minister has been responsive to the issue of the shipping company P. J. Scott, and the minister has 1 minute more to wind up with respect to other parts of the detail of the question the Leader of the Opposition asked the minister. The minister will continue.

Hon. J. M. MADDEN — I have finished answering the question.

Supplementary question

Mr Jennings (to Hon. Bill Forwood) — That's three times you've interrupted the President while she has been giving a ruling.

Hon. PHILIP DAVIS (Gippsland) — Am I allowed to ask my question now?

Hon. J. M. Madden — Watch your blood pressure, Phil!

The PRESIDENT — Order! I am sure the minister wants to hear the supplementary question addressed to him.

Hon. PHILIP DAVIS — President, I am amazed by your former ruling, but since you have made the ruling I ask this supplementary question: when did the minister become aware that P. J. Scott and Associates was a deregistered company?

Hon. J. M. MADDEN (Minister for Commonwealth Games) — As I mentioned in my previous answer, the information that had been provided to us in relation to P. J. Scott and Associates was on the recommendation of Barwil Agencies to provide information related to the accommodation potential of those ships. P. J. Scott is presently engaged with the Athens organising committee to assist it in delivering significant cruise ship accommodation for the forthcoming 2004 Olympic Games for the needs and the demands for accommodation for tourists in Athens.

Hon. Philip Davis — On a point of order, President, at the risk of testing your interpretation of procedures in this place, may I suggest that the minister has been absolutely unresponsive to the question he was asked. He has recited material which is relevant to a different question. The question which I asked was quite specific, and there is no doubt about the nature of the response he is required to give, which is when he became aware of the matters that I have raised with him — that is, when did the minister first become aware that P. J. Scott and Associates was a deregistered company?

The PRESIDENT — Order! The Leader of the Opposition has asked the minister a specific question in his supplementary question with respect to when P. J. Scott and Associates became deregistered. The minister made reference to the company's association with Athens but has not addressed the issue with respect to the supplementary question. I ask the minister if he would like to add further to his answer or leave it with the response that he has given.

Hon. J. M. MADDEN (Minister for Commonwealth Games) — I have finished, thank you, President.

Hon. Bill Forwood — Come on! He's got to answer the question!

Ms Broad — He doesn't.

Hon. Bill Forwood — Then he should say he is not going to answer the question.

The PRESIDENT — Order! I advise Mr Forwood that the rules of the house are that the Chair cannot force the minister to answer the question. The response that he gives is in the hands of the minister. I have asked the minister whether he is staying with the answer. I have indicated to the house that I do not believe his answer was as responsive as it could be and have invited him to add to it if he chooses, but it is an invitation only — it is up to the minister how he responds to questions in the house. Mr Forwood knows that as there have been previous rulings on this in the house.

Wind farms: Portland

Hon. H. E. BUCKINGHAM (Koonung) — I refer my question to the Minister for — —

Honourable members interjecting.

The PRESIDENT — Order! I ask members on both sides of the house, and especially Mr Forwood, to desist from interjecting.

Hon. H. E. BUCKINGHAM — I refer my question to the Minister for Energy Industries. Yesterday in Portland the Portland community held a successful rally in support of the Portland wind energy project outside the office of the former Liberal leader, the honourable member for South-West Coast in the other place. Can the minister inform the house what this means for the renewable energy industry in this state?

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — I thank the honourable member for her question and her ongoing interest in this important industry. I understand that yesterday a crowd of about 500 concerned citizens held a rally outside the electorate office of Denis Napthine, the honourable member for South-West Coast in the other place, in support of the Portland wind energy project and the new wind energy industry which is emerging in this state. I congratulate the residents of Portland, the industry and the unions who are interested in a future for the wind industry in this state on holding this rally because it has exposed for what it is the myth of the Liberal Party — that is, that Victorians do not support wind energy projects in this state when, in fact, they do.

Well may the people of Portland protest, because Pacific Hydro's 180-megawatt Portland wind project is a significant step forward in achieving the Bracks government's target of 1000 megawatts of clean wind power by 2006. And it will create a significant number of jobs in regional Victoria.

If the Liberal Party wants to oppose renewable energy, it should be up front about this. Call it what it really is: a politically driven attempt by the Liberal Party to destroy a new industry for Victoria. That is what is happening. And it is driven by the new guard of black coal junkies: Mr Doyle, Mr Baillieu and Mr Philip Davis. They are determined to deny this state an appropriate role and a wind energy industry. The people at yesterday's rally know that the Liberal Party remains totally divided on renewable energy in this state. This new guard — —

Honourable members interjecting.

Hon. T. C. THEOPHANOUS — Mr Forwood knows exactly what I am talking about — —

Mr Smith — He's the old guard.

Hon. T. C. THEOPHANOUS — He is one of the old guard, yes, he is. The black coal rat pack oppose renewable energy. They want to deny climate change, and they want to deny renewable energy. They support the federal government in its anti-Kyoto stance — that is what they are on about.

The old guard, Mr Forwood and Denis Napthine, are fighting a losing battle. Mr Forwood supports the mandatory renewable energy target, but Doyle is not listening to him. Denis Napthine supports Portland and wind development in Victoria, but no-one is listening to him. On 24 September, Denis wrote to the Portland Progress Association with a message of strong support, and yesterday he reiterated that strong support. Hang on a minute, wasn't it Denis's leader who said in the *Latrobe Valley Express* that he was opposed to wind farms being set up along coastal Victoria? Hello? Isn't Portland part of coastal Victoria? I think it is. It is very clear that Denis Napthine and Bill Forwood have one position, which is in support of Portland, but their leader has a different position altogether.

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

Before I call the next member to ask a question, I remind members and ministers that when referring to members of this house or the other house they should use their correct titles.

Commonwealth Games: athletes village

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — My question is to the Minister for the Commonwealth Games. The minister has described P. J. Scott and Associates as a 'respectable shipping broker of international standing'. Given that P. J. Scott and Associates is in fact a deregistered company, on what basis does the minister regard it as respectable and of international standing?

Hon. J. M. MADDEN (Minister for Commonwealth Games) — I welcome the question in relation to this matter. If the opposition wants to contact Barwil Agencies to check on the qualifications of P. J. Scott and Associates, I welcome that. The opposition should remember that this gentleman or this association still operates in relation to giving advice as a consultant to the Athens organising committee. The opposition should be aware that this advice is not diminished at all by the fact that P. J. Scott and

Associates now operates out of Athens, giving advice to the Athens organising committee and qualifies the advice on the Commonwealth Games that we received.

It should also be appreciated that the assessment provided by P. J. Scott was endorsed with the parallel exercise undertaken by Melbourne 2006, which surveyed 12 other shipping brokers. That qualified and confirmed the advice. They cross-referenced each other. It demonstrates that our decision to locate the games village in Parkville is an appropriate one not only for the athletes' accommodation requirements but also for the long-term benefits to the state. What the opposition is suggesting with cruise ships would deliver no net benefit to the state of Victoria in respect of social housing, an environmental legacy or community outcomes.

Supplementary question

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — Given that P. J. Scott and Associates is unknown to Lloyds shipping register, does the minister stand by his claim that P. J. Scott and Associates is a respectable shipping broker of international standing?

Hon. J. M. MADDEN (Minister for Commonwealth Games) — I will reaffirm that if the opposition has problems with the recommendations of Barwil Agencies, it reflects not only on the opposition's poor internal organisation but also on the fact that it continues to have no new policy, no plan — —

Hon. Philip Davis — On a point of order, President, this question time is turning into an absolute farce. This minister has come in here and debated the questions. More to the point, he is avoiding at every point answering the questions raised with him. I say to you, President, that you are obliged to point out that — as I believe — the rules of this house say explicitly that this minister is obliged to answer the question that is put to him. If he does not answer, he either does not know or he holds this house in contempt.

The PRESIDENT — Order! The Honourable Gordon Rich-Phillips asked a supplementary question with respect to P. J. Scott and the fact that it was not registered with Lloyds shipping register and asked whether the minister stands by its being a respectable company. The minister was halfway through his response to the supplementary question and was starting to debate the answer. I ask the minister to come back to responding to the honourable member's supplementary question.

Further on the Leader of the Opposition's comments about the minister being obliged to answer questions, I remind the honourable member and the rest of the house that a minister is not obliged to answer a question, but if he gives an answer, it should be relevant and responsive.

Hon. J. M. MADDEN — Thank you, President, I have responded to the questions.

Seniors: media representation

Hon. J. G. HILTON (Western Port) — I refer my question to the Minister for Aged Care, Mr Gavin Jennings. Can the — —

Honourable members interjecting.

The PRESIDENT — Order! It is very difficult for Hansard and me to hear the honourable member's question. I ask him to repeat it. I did not even catch who it was directed to.

Hon. J. G. HILTON — I refer my question to the Minister for Aged Care, Mr Gavin Jennings. Can the minister advise the house of recent state government initiatives to promote the accurate portrayal by the entertainment industry of older people in the Victorian community?

Mr GAVIN JENNINGS (Minister for Aged Care) — I am pleasantly surprised by the question asked by the member and his ongoing interest in the profile of older people, particularly as it is presented on our TV screens. Last week I was very happy to announce a range of measures that supports the television industry and the media — —

An honourable member interjected.

Mr GAVIN JENNINGS — Indeed, it is back on. It is back on, because it is a very relevant issue for the older members of the community. Members of the community would notice that our television programs and media generally do not present an accurate and representative portrayal of older members of the community. That is a concern to a number of people in the community for a variety of reasons.

Over 55s in our community spend on average twice as much time watching television as other members of the community. Most advertising dollars are directed towards a young demographic, people who watch about $2^1/_2$ hours of television a day, yet over 55s watch $4^1/_2$ hours of television a day. In fact the over 55s, despite the stresses they are under, own about 54 per cent of the asset base of this nation and represent 25 per cent of our disposable income. So the clear message from the government of Victoria to advertisers and

free-to-air television stations is: get to know your demographics; get to know what the potential is for increased effort to provide programs that highlight the capacities and talents of older members of the community.

Last week the government established a task force to provide it with advice on how it could play a supporting role in ensuring that outcome. It is chaired by Alan Hopgood and involves some outstanding members of the entertainment industry who will provide advice to the government on ways for it to improve its performance in this area.

Hon. Bill Forwood — Has it got Terry Norris?

Mr GAVIN JENNINGS — Terry Norris — a very good guess! He is on the task force. He is actually a practitioner currently — —

Hon. Bill Forwood interjected.

Mr GAVIN JENNINGS — Exactly. But also a well-recognised and respected member of the entertainment industry. He is currently appearing in *Humble Boy***.**

This is part of a package of measures that the government intends to implement. It is providing a range of grants that will encourage writers and producers to start giving a more accurate portrayal of intergenerational issues and the role of older members of the community. It is consistent with the sponsorship of the United Nations peace media awards that will be announced on 24 October. These awards will highlight the role the media plays in supporting the appropriate and positive portrayal of older persons' issues. I am very pleased that the government is able to provide that support.

The government has also funded a program that will enable the road testing of a new pilot program set in a retirement village. This will be read and rehearsed in the very demographic it is targeting — that is, a retirement village itself. It has also encouraged older members of the community to be actively involved in the great facilities at the Australian Centre for the Moving Image. We are encouraging people to come in as customers at reduced entry prices to see films so that they can become more active participants in this great facility. Once people are there they will become mindful of the opportunity that is available to them to record their own oral history for all time. It is particularly relevant for people who may suffer dementia because they can pass on their stories as a legacy to their families. Their stories are very important — —

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

Building industry: warranty insurance

Hon. P. R. HALL (Gippsland) — My question without notice today is directed to the Leader of the Government in his capacity as Minister for Consumer Affairs. As a result of changes to builders' warranty insurance announced last week by the Housing Industry Association and insurers, Royal and Sun Alliance Australia Ltd, can the minister give an assurance that all Victorian builders, whether they are members of HIA or not, will have access to a level of builders' warranty insurance that is fair to both builders and consumers.

Mr LENDERS (Minister for Consumer Affairs) — I thank Mr Hall for his question on an issue that has been in the forefront of my mind since February last year and obviously on the minds of everybody involved in building in this state for the same period of time. As the house would be aware, following the collapse of HIH, which was a provider of insurance for probably half of Victoria's builders, there has been enormous dislocation in the industry. Again, as the house would be aware, in February last year we were on the verge of not having a single builders' warranty insurer in Victoria, and the remaining providers were all on the point of walking, as was the case with insurers in New South Wales. With an industry that generates in excess of $1 billion dollars a month in construction, clearly that would have been catastrophic for Victoria.

It was in that climate that the Victorian and New South Wales governments together enacted what is now being called the 10-point plan, which my colleague the Minister for Planning in the Legislative Assembly enacted. That plan, amongst other things, sought to stabilise builders' warranty insurance and overcome some of the issues that were there from the departure of HIH and from the other suppliers being about to walk.

In that context there was enormous dislocation, and as part of addressing that and bringing confidence back into the industry, a range of things was done. With hindsight, I do not think anybody in the insurance market would think those things could not have been done better, and as part of the recognition of improving relations between insurers and builders, the Housing Industry Association, in conjunction with Royal and Sun Alliance Insurance and Aon Risk Management, put together a package a week ago on Monday which I had the privilege of launching at a building site in Armadale. That package, amongst other things, was designed to bring about a one-stop shop to expedite the time it took for a builder to get a permit and a project

put in place and then to get speedy builders' warranty insurance to deal with that.

There are issues, and certainly not everybody in the community is jumping for joy at this product, because a lot of people still want faster and quicker access to insurance. However, I would be quite hopeful that we will have more entrants in the market, rather than just Royal and Sun Alliance and Reward, the two providers that are into builders' warranty insurance in Victoria at the moment.

The pertinence of what Mr Hall is raising is: am I satisfied with it and where is it going? And there are a range of other things. Firstly, I am delighted that there is a quicker response for builders than there was. All of the people in categories 1, 2 and 3 of insurance risk have a greater extension and range of insurance than they used to have. They have quicker turnover of paperwork and less requirements. The higher risk elements — categories 4 and 5 — under this product still have the same delays and waiting that they had before, but people are working on that.

The pertinent issues, though, become what further can we do on the issue of builders' warranty insurance to attract further entrants into the market and also to streamline what is there. It is an absolutely pertinent question which I have given a lot of attention to, as has the whole industry. One of the things I have endeavoured to do is address the way builders structure their accounts. Builders' accounts are structured for taxation purposes. Builders often divest themselves of assets so they cannot be sued.

I have asked both major accounting bodies in the state to start looking at the advice they give builders, because if there is an asset or a portion of an asset that can be secured, perhaps that is one of the ways. There are a lot of issues that need to be dealt with so that the building industry, the accounting industry and the insurance industry all recognise that times have changed since the collapse of HIH, and we need to move forward towards it.

I am confident that the New South Wales government's response to the Grellman inquiry, which it will release fairly shortly, will hopefully be a trigger for more certainty in the interstate market and for more insurers to come into the Victorian and New South Wales markets. I think that will answer all of Mr Hall's question.

Supplementary question

Hon. P. R. HALL (Gippsland) — It was a good answer, and I thank the minister for it. The minister spoke in part about encouraging further entrants into the insurance market. I ask the minister if one of the options he would be considering is a state-owned and operated insurance scheme similar to that which applies in Queensland as a possible further entry into the insurance market here in Victoria?

Mr LENDERS (Minister for Consumer Affairs) — I guess ever since the Kennett government got rid of the state insurer in this particular area and started winding it down there has been a trend where seven of the eight state and territory jurisdictions have private insurance markets and do not have state insurers. It has certainly not been on the agenda of the Victorian government to bring back a state insurer for builders' warranty insurance. We have kept in line with all other jurisdictions other than Queensland, and we have been endeavouring to keep this market going.

We are, however, being very scrupulous about who can enter the market, and there are issues that the industry has drawn to our attention of people who either do not have Australian Prudential Regulation Authority approval or do not have a suitable credit rating attempting to enter the market in those particular areas. We have tried to address the issue as to why there was an insurance crisis in builders' warranty, and the 10-point plan addressed a lot of those issues. But, no, it is not on our agenda to bring back a state insurer for builders' warranty in Victoria.

Housing: Latrobe Valley

Mr SOMYUREK (Eumemmerring) — My question is for the Minister for Housing. Can the minister please inform the house about action the Bracks government has recently taken to improve service to Office of Housing tenants while boosting the Latrobe Valley economy?

Ms BROAD (Minister for Housing) — I thank the member for his question and for his support for the continuing efforts by the Bracks government to improve the quality of service offered to Office of Housing tenants. I am very pleased to inform the house that on a recent visit I recently opened the Office of Housing maintenance call centre in Moe.

The maintenance call centre is a $6.6 million project, the funding of which was contributed both by the Office of Housing and by the Bracks government's Regional Infrastructure Development Fund. It will provide an estimated boost of $2.4 million in economic activity to the Latrobe Valley. The fit-out alone contributed some $1.5 million to the local economy, which is an important boost to that regional economy. I

am very pleased to say that at a time of record building activity in Victoria, this project was delivered on time and on budget.

The call centre will create 65 full-time and part-time jobs in the Latrobe Valley. It builds very much on the successful work of the Bracks government's Latrobe Valley task force and shows that this government continues to have great confidence in the inherent strengths of the Latrobe Valley. The call centre replaces two temporary sites that have been operating in Melbourne and Churchill. It operates from 8.00 a.m. to 8.00 p.m. each weekday, and the Office of Housing has after-hours emergency service arrangements to take calls outside of those times when that is necessary.

I am also pleased to say that this centre is located on the site of the former Moe hospital, and the local community is extremely happy that this site which was such a focal point for the local community for such a long time is again being put to good use.

The introduction of the call centre also presents further indirect employment opportunities for existing local businesses in addition to the direct employment that I have already referred to. For example, the call centre staff were recruited by a local not-for-profit employment agency, and 70 per cent of the labour used during the fit-out of the Moe centre was from the local community, which is a tremendous result.

After the initial set-up of the Moe call centre local employment opportunities will continue to expand as surrounding small businesses supply goods and services to the call centre and staff during the ongoing operational phase. At a time when unemployment in Victoria is the lowest of all states in the nation — 5.7 per cent in July — I am pleased to say that the Bracks government is continuing to create employment opportunities such as these jobs in the Latrobe Valley.

The opening of the call centre represents a significant improvement in the way maintenance services will be delivered to Office of Housing tenants right across Victoria. A single telephone number will let Office of Housing staff respond more quickly and accurately to maintenance requests. Previously staff in regional offices, it is estimated, devoted up to 20 per cent of their time to processing maintenance requests. The call centre now frees up these staff, enabling more home visits and more support to ensuring successful tenancies. The Bracks government is getting on with the job of delivering for Victoria's public housing tenants.

Commonwealth Games: athletes village

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — My question is for the Minister for Commonwealth Games. Does the minister regard the quote obtained from the deregistered and industry-unknown P. J. Scott and Associates as an adequate basis on which to make a decision to discard the cruise shipping option?

Hon. J. M. MADDEN (Minister for Commonwealth Games) — I can understand that the opposition is obviously obsessed with cruise ships. When you have nothing to do, when you have no plans and when you have no policy, maybe a long cruise would be good for the opposition! Can I just point out, as I mentioned previously, that Barwil Agencies recommended P. J. Scott and Associates and it, I understand, is still happy to back up P. J. Scott and Associates as a credible consultant.

As I also mentioned, the information that P. J. Scott and Associates supplied was also run in parallel with an exercise undertaken by Melbourne 2006, which, as I mentioned before, surveyed 12 other shipping brokers. The government's best estimate of the true cost of the shipping option, as I have mentioned previously, still in no way equates to the net economic benefit and the legacy in terms of public housing and environmental initiatives that will come out of the development at Parkville.

We did the work that the opposition failed to do when in government. We have done the work to qualify, quantify and make sure that the village will work, and it will bring sustainable long-term legacies: economic, environmental and social. Regardless of what the opposition says, we did the homework where you failed to do the homework, because we were prepared to invest in that work.

The PRESIDENT — Order! I ask the minister to speak through the Chair.

Hon. J. M. MADDEN — We were prepared to invest in that work. We know the opposition is lazy, and it displays that, because the only way it can get a question — —

Hon. Philip Davis — On a point of order, President, the opposition has been more than tolerant of the answer to this question. The minister has commenced again to debate the question. I ask you to draw him back to the question and ask him to be responsive to the question about P. J. Scott and Associates.

The PRESIDENT — Order! The minister is just over halfway through the time allocated for him to

respond to the question raised by the Honourable Gordon Rich-Phillips, and I ask him to complete his answer.

Hon. J. M. MADDEN — Thank you very much, President. The opposition is lazy now; it was lazy in government. It did not do the work.

Hon. Philip Davis — On a point of order, President. I raised a point of order so that you might rule on it. The fact is that you did not rule on the point of order and my view is that the point of order stands: that the minister is debating the question and he needs to come back and be responsive to the question that was asked.

The PRESIDENT — Order! As I said before, the minister was about halfway through the time allocated for answering the question. He has had about another 10 or 15 seconds. He is now starting to debate the question, and so I ask him to be responsive to the question asked by the Honourable Gordon Rich-Phillips.

Hon. J. M. MADDEN — Thank you very much, President. As I was saying, we did the work that was not done prior to our coming into government. We did the work which required us to ensure that the Parkville site was the best possible site for a games village and to ensure that we made the investment that was required to be made to the best advantage of all Victorians — the net benefit, the economic benefit, the social benefit, the community benefit and the environmental benefit. We did the work and, as I mentioned before, it was work that should have been done when the opposition was in government, and it failed to do it.

Supplementary question

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — I ask the minister: when was the decision taken to discard the cruise shipping option?

Hon. J. M. MADDEN (Minister for Commonwealth Games) — If Mr Rich-Phillips had followed the process from the very beginning and if he had understood what was going on with the Commonwealth Games before he took on the spokesperson responsibility, he would appreciate that we went through an open process. We threw it out to the marketplace and invited anybody with a better option to come and tell us what that better option was. They came back with options, and none of them was any better. And then to qualify it and to make sure we had the best option we did more research. We have continued to research that and work on that. Regardless of what the opposition thinks about the site, it will be the best site for the best Commonwealth Games. It will bring the benefits that we have ensured are delivered, benefits that the opposition when in government was not prepared to do the work for.

Real estate agents: practices

Hon. J. H. EREN (Geelong) — I refer my question to the Minister for Consumer Affairs, John Lenders. Can the minister inform the house what the Bracks government has been doing to ensure that consumers are protected against unscrupulous actions of some real estate agents?

Mr LENDERS (Minister for Consumer Affairs) — I thank Mr Eren for his question and his ongoing interest in consumer affairs, particularly in the Geelong region, which he represents so well.

The particular issue of what the Bracks government is doing in those cases where unscrupulous real estate agents exploit consumers is one that this government has listened to consumers and acted on. We have listened hard and have been acting because this is a very important area. But first I need to make quite clear that we are talking here about a distinct minority of real estate agents. Most of the real estate industry shares the government's concern to want to stamp out unscrupulous actions of some agents because any unscrupulous behaviour blackens the name of the whole real estate industry and further undermines the confidence in that industry, which is always critical to having a healthy real estate market going on.

One of the things that this government did on 26 April last year was to announce and launch EARS — the Estate Agents Resolution Service — and it goes back to the theme that if you are not listening, you cannot act. So part of the resolution service was to set up a real estate hotline so that consumers could actually put their grievances forward, get some conciliation on them, and so we could deal with the complaints that came through from the real estate agents area.

What we have seen since 26 April last year, I am pleased to report, is that 8246 inquiries have been received by the Estate Agents Resolution Service and 916 written complaints. There are hundreds and thousands of transactions. At the top of the list of complaints was the mismanagement of tenanted residential properties and issues such as not informing a vendor of an offer. But I guess what I found to be most disappointing was the number of agents who still persist in under and overquoting in their advertising material. Legislation was put in place earlier this year,

although it does not come into effect until 1 February next year. I am certainly concerned and share Mr Eren's concerns in these areas, and I call on all real estate agents to work to adopt these changes into their work practices because it is a critical area.

The Real Estate Institute of Victoria shares this view that we need to absolutely keep the industry in high repute so people have confidence in it. It is also something that the Australian Competition and Consumer Commission, under its new leadership, is also conscious of — that is, keeping this industry absolutely squeaky clean. What we are talking about here is the need for consumers to be confident that the real estate industry is one that they can deal with. It is up to the government, the community, and the industry itself to regulate and make sure we have the best possible practice so that people can go out there with confidence. The Estate Agents Resolution Service, or EARS, plays a critically important role in fostering this confidence in the community, and it is another instance of this government listening to and acting for consumers.

Sport and Recreation Victoria: scalping legislation

Hon. D. KOCH (Western) — My question is to the Minister for Sport and Recreation. The head of Sport and Recreation Victoria, Dr Peter Hertan, has said the department would investigate and refer to the police the actions of Neil Mitchell and 3AW in auctioning grand final tickets for charity in breach of the minister's scalping laws. Does the minister support the course of action proposed by his department head?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I welcome the member's question because there is no doubt that the new legislation that has been introduced and implemented — I emphasise 'implemented' — received substantial coverage in the press in the lead-up to the grand final. The interesting thing about that is that it certainly had an impact. Regardless of the criticisms of the opposition over many years — we have had this debate over many years — the legislation did deliver the outcome we were after.

I qualify that, because a substantial amount of auditing needs to take place in relation to the practices of clubs and ticket distributors. As well as that, police members will have to follow up recommendations from the department. I am not engaged in any of those recommendations because that takes place at an officer level. I would expect that to take place as defined in the legislation and at arms length from me.

Supplementary question

Hon. D. KOCH (Western) — Given that the minister has refused to endorse the actions of his departmental head, who was acting in accordance with the minister's scalping laws, does not his failure to support his departmental head in enforcing his legislation demonstrate what a farce it is?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — Obviously the member did not listen to or understand my answer. It takes place at arms length from me; it is a process which is at arms length. Those recommendations are made to the police, and the police determine whether actions are warranted in relation to follow-up on those recommendations by officers within the department. I wholeheartedly endorse the outstanding work that bureaucrats do and continue to do across government, particularly in the areas I work in. Dr Peter Hertan does a magnificent job, and I support him wholeheartedly.

Prahran market: Sunday trading

Mr SCHEFFER (Monash) — I direct my question to the Minister for Small Business. Along with many of my constituents, I was concerned to read in my local newspaper an article entitled 'Never on a Sunday the market traders vow'. The minister will be aware that this concerned a retail leases dispute about opening on Sundays. The market has been a valued local institution for nearly 140 years, and I would like the minister to advise the Council what role the Small Business Commissioner played in the resolution of this dispute?

Hon. M. R. THOMSON (Minister for Small Business) — I thank the member for his interest in the market in his local electorate. The Prahran market was at the centre of a dispute between the tenants and management over a decision by the board to open on Sundays. What appeared to be a dispute that would be unresolvable and would only escalate was resolved by the intervention of the member for Prahran in another place, Tony Lupton, and referral to the Small Business Commissioner.

I remind members that when the legislation was introduced in relation to both retail leases and the Small Business Commissioner we emphasised the important role the commissioner could play in minimising and alleviating disputes by preventing their escalation to a point where they headed to the courts for an outcome and would instead have the type of response the commissioner was able to get in this instance.

The Small Business Commissioner had discussions with both the tenants and management of the Prahran market and, by agreement, was able to arrange for mediation to take place. That mediation was successful and agreements have been reached in a number of the areas. There was agreement to establish a traders advisory committee, which was not in place earlier. There was a commitment that Sunday trading should succeed for both the board and the tenant and also acknowledgment that the board may bring casual traders into the common areas on Sundays.

By agreement they talked about deleting the clause the market board insisted on which would make it compulsory for stallholders to open. By reaching that agreement they are able to move the Prahran market further with cooperation, which is exactly the outcome we want to see from retail leases legislation.

The Small Business Commissioner did a fantastic job in dealing with this issue, and mediation worked so successfully that Michael Dixon, the spokesperson for the Prahran market, said in a press release that:

> Traders and the management team are actively working to facilitate the best experience and trader mix for the Sunday shopper and the Prahran market. We are very pleased that Prahran market's traders and management team have been able to work together to provide both choice to shoppers as to when they shop and choice to traders as to when they open.

This is a fantastic outcome and demonstrates the worth and value of the Small Business Commissioner, the retail leases legislation and the legislation covering the commissioner's capabilities to act.

QUESTIONS ON NOTICE

Answers

Mr LENDERS (Minister for Finance) — I have answers to the following questions on notice: 561, 580, 613, 615, 730, 737, 771.

Hon. BILL FORWOOD (Templestowe) — I asked question 639 in relation to disability issues through the Minister for Aged Care. I provided the minister with a letter on Wednesday of the last sitting week asking when this matter could be addressed. From memory the question was asked in May which is well over the required period for the answering of questions. Can the minister provide an explanation why the question has not been answered?

Mr GAVIN JENNINGS (Minister for Aged Care) — I certainly recall the member passing me the correspondence. I know the matter has been raised with the Minister for Community Services, who is responsible for the substantive answer. I apologise to the member for not guaranteeing that this answer was tabled today. I shall raise the matter this afternoon with the Minister for Community Services in an attempt to expedite the answer at the earliest opportunity.

Hon. R. DALLA-RIVA (East Yarra) — I ask for an explanation about a number of questions I placed on notice over a long period. I asked the Minister for Corrections in the other place questions 77 and 78, dated 4 March this year — 8 months ago; questions 500, 503, 504, and 569, which were asked over 6 months ago; and questions 606, 614, 633, 643, 654, 722 and 723, which were asked over 5 months ago.

These questions for the Minister for Corrections in the other place account for about 40 per cent of all outstanding questions that have not been answered within the rules required by standing order 6.08. I ask for an explanation for the delay. I have written on numerous occasions, specifically in relation to the earlier questions in March and May. I have written as recently as a number of weeks ago and received correspondence only the other day saying it will be looked into. I seek an explanation.

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — The honourable member has requested answers to questions which he claims he asked a number of months ago. Under standing orders ministers in this house are responsible for answering questions that are put to them in relation to their own portfolios, and we make sure we do that. We also seek, as far as we can, to get answers to questions from ministers from the other place who we represent. I will continue to try to assist the member to get answers to his questions as soon as possible.

RULINGS BY THE CHAIR

Adjournment debate: guidelines

The PRESIDENT — Order! During the adjournment debate on 4 June this year Mr Bob Smith asked me to provide some guidance or codification of the rules relating to the conduct of the daily adjournment debate. In raising the matter he indicated that many members were confused as to what may or may not be acceptable in developing a query, making a request or making a complaint to a minister during the debate. Mr Smith said that there was a problem in that it is not clear what is a set speech or what may simply be a member developing his or her request, complaint or query. Finally, Mr Smith sought clarification,

particularly for newer members, as to how specific a query, complaint or request should be and at what point the member should pose the query, complaint or request.

Members will be aware that the rules relating to speeches on the daily adjournment were adopted by the house last year and are outlined on page 56 of the standing orders as rules R4.01 to R4.07. In ruling on the matter raised by Mr Smith I will attempt to eliminate any ambiguities in these rules as far as possible.

The daily adjournment debate enables members to raise matters, often relating to local issues, for the consideration of ministers. In raising such matters, members may only provide such information necessary to assist the minister's understanding of the issue. However, this debate is not another question time — the distinction being that question time is an opportunity to seek information.

Before dealing with the issue of the adjournment debate in general I will deal with the specific matter raised by Mr Smith concerning set speeches. No rulings have previously been given in this house on a definition of what constitutes a 'set speech'. Rulings over the years have simply centred around restating the requirement that a set speech cannot be made. An examination of relevant precedents from other Australian jurisdictions also indicates the difficulty in providing a satisfactory definition. However, in the context of the adjournment debate, which is a series of unrelated specific issues raised by individual members, a set speech could be understood to mean a speech which invites or incites an immediate response which could lead to a full-scale debate on the matter. Such a matter should not be raised on the adjournment as it would be more appropriate for this type of issue to be the subject of a substantive motion where a question can be put and resolved. This cannot occur in the adjournment debate because current practice and rulings dictate that once a minister has dealt with a particular adjournment matter, that matter is then disposed of.

I have also given consideration to the technique members might use when raising matters on the adjournment and, to assist members, I suggest the following four-stage process should be adopted:

indicate to whom the matter is being directed;

give a brief resume of the facts;

set out the request, query or complaint;

suggest the action sought.

Finally, I consider that the following general guidelines should apply to the conduct of the adjournment debate and should supplement the existing rules of practice. The usual standards of parliamentary practice and procedure should also continue to apply to the adjournment debate:

members may not read speeches but may refer to detailed notes when referring to local issues or places and people or when referring to complex matters such as statistics or figures;

questions similar to questions without notice are inadmissible;

the matter raised by a member must be specific and not general in nature and must seek specific action. It is not in order to ask a minister to continue merely to take a particular action;

it is not in order for a member to attack opposition members or their parties or other governments when raising matters on the adjournment;

the matter raised must relate strictly to Victorian government administration. However, where federal and state jurisdictions overlap, a matter may be directed to the state minister as it specifically relates to their area of responsibility.

Replies to matters raised on the adjournment are a matter for the minister taking the adjournment debate. The Chair does not have the power to compel a minister to respond to a matter raised.

I hope that this ruling will assist members in preparing contributions to the adjournment debate each day.

MEMBERS STATEMENTS

Presiding officers: independence

Hon. B. N. ATKINSON (Koonung) — I wish to reflect on an article that appeared in yesterday's *Australian* which quoted Mark Latham from the opposition in the federal Parliament. His suggestion to the Speaker of the House of Representatives, Neil Andrew, was that the Speaker ought to resign from the Liberal Party and stop attending coalition meetings in order to provide a greater amount of independence to the Chair in that place. Mr Latham indicated in this article that as long as the Speaker is affiliated with party politics there would always be pressure to lean one way, plus the perception of party bias. Mr Latham said that Mr Andrew should therefore withdraw, and that

that would be a step in the right direction for the federal Parliament.

In considering that, considering the reforms that we have made to this place by way of legislation and particularly considering your position, President, in contesting the election of federal president of the Labor Party, I thought it might well be worthwhile for you to give some consideration to Mark Latham's suggestion that it would be appropriate to separate the two positions of Presiding Officer in the house and participation in the political party, particularly if that participation involved aspiring to federal presidency.

Politicians clay target shoot

Hon. KAYE DARVENIZA (Melbourne West) — I wanted to inform the house that on Thursday, 25 September, I attended the first annual politicians clay target shoot at the Melbourne Gun Club in Lilydale. There was a good turnout of pollies, and all persuasions were represented. The local member for Evelyn in the other place, Heather McTaggart, was there, as well as my upper house colleague David Koch.

The event was hosted by the board of Field and Game Australia, and I congratulate it on providing us with an excellent opportunity to meet key individuals from the shooting sport and get some expert tuition from the Olympic team coaches Greg Chan and Luca Scribani as well as Olympic shooting champions Russell Mark and Lauryn Ogilvie.

The board of Field and Game Australia has much to be proud of at their Melbourne Gun Club. The club is situated in an idyllic location in the Yarra Valley and is indeed a world-class venue. I congratulate the club on an informative and fun day, and I look forward to attending and encouraging more of my political colleagues to attend next year's event.

Odyssey House: funding

Hon. ANDREA COOTE (Monash) — Last week, together with the Honourable David Davis, I attended a lunch for the friends of Odyssey House. This was a celebration of over 20 years of service in drug rehabilitation for Victorians. Mr Nigel Dix, the chairman, welcomed guests and explained how valuable the work of Odyssey House is.

David Crosbie, the chief executive officer, told us there is a great need for residential beds for drug users. He explained that whilst the number of heroin users has in fact declined, the number of synthetic drug users is on the increase and the users of synthetic drugs such as ice are often violent and very difficult to deal with. Odyssey House has developed several accredited courses which have been highly successful and have enabled many of their clients to resume a worthwhile drug-free life.

The Attorney-General recently released a report into drug education in public schools during the Kennett era, and he said it was a praiseworthy program. I encourage the Bracks government to ensure that there is continuing and pertinent drug education in all schools in Victoria. I commend the work of David Crosbie and the team at Odyssey House, and I call upon the Bracks government to increase the number of residential beds available for drug addiction treatment.

YMCA Youth Parliament

Hon. J. G. HILTON (Western Port) — On 25 September I was privileged to participate as an acting president for a session of the YMCA Youth Parliament. In the session of which I was a part the sponsoring and refuting pairs were Kerang Technical High School and Manningham YMCA. The debate was on the YMCA's introduction of the learner permit holders towing bill. After vigorous debate the bill was passed by a majority of 40 to 16.

It was very gratifying to see such an enthusiastic group of young people arguing vehemently and passionately and certainly entering into the spirit of parliamentary debate. It is encouraging for the future.

The aims of the Victorian Youth Parliament are threefold: firstly, to provide young people with a forum to express their views; secondly, to provide the state government with an indication of bills which could be of interest to young people; and thirdly, to provide an opportunity for the young people to gain public speaking and debating skills.

The YMCA Youth Parliament was first held in 1987 and has gone from strength to strength ever since. Such has been the success of the Victorian Youth Parliament that there is now a biennial national Youth Parliament and all other state parliaments now run similar programs.

The success of the program is due in no small part to the clerks of the Parliament, who do such a remarkable job in ensuring the efficient running of the event. I understand the Usher of the Black Rod — —

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

Drugs: prisons

Hon. R. DALLA-RIVA (East Yarra) — I follow on from the Honourable Andrea Coote in the sense that I am also talking about the amount of drug use and abuse that occurs in our society, more specifically about the extent of the concerns we have with drugs in the prison system and those offenders and prisoners who come out of the jail system often in a worse situation than when they went in.

I had the privilege over the last number of weeks to attend the annual general meeting of the Victorian Alcohol and Drug Association (VAADA), the peak body for the alcohol and drug organisations and to share in their concerns about drugs and specifically about the amount of drugs prevalent in our prison system. To a degree I am very disappointed about some of the concerns that we have, in particular with the number of people entering the jail system and the amount of drug and alcohol abuse, which is around 60 per cent for the first time they enter the jail system. The disturbing fact is that the VAADA figures show an increase to around 84 per cent for those going into the jail system for the second time. That is quite a substantial increase. So it is quite annoying to continually see the productivity cuts in some of the areas where hardworking people are trying to deal with the problems of drugs and alcohol in our community and in the jail system.

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

Crime Stoppers International conference

Ms MIKAKOS (Jika Jika) — Yesterday I was pleased to attend with the Minister for Police and Emergency Services in the other place, the Honourable André Haermeyer; the Honourable Carolyn Hirsh; the member for Prahran in the other place, Tony Lupton; and police chiefs and community leaders from around the world the opening of the Crime Stoppers International conference.

It is truly fitting that this conference, being held outside North America for the first time, is being held in the safest state in Australia during Victoria's community safety month, when we will see over 800 activities in partnership between the government and community aimed at reducing crime and increasing community safety.

The Bracks government is proud of its law enforcement agencies, which it has supported through additional resources. It is also proud of the community's efforts through our Crime Stoppers program which works in partnership with the police and media. Despite improved crime prevention and police investigative methods, the reality is that a member of the public will probably detect the commission of a crime first. The anonymity of Crime Stoppers encourages the reporting and therefore the solving of crime. I wish the delegates, both international and Australian, every success at this week's conference and trust that the exchange of information will further promote community safety in our country.

War memorials: Belgium

Hon. BILL FORWOOD (Templestowe) — Last week I had the honour and privilege, together with Ms Romanes and Mr Baxter from this place and Ms Campbell, Ms Green and Mr Merlino, the honourable members for Pascoe Vale, Yan Yean, Monbulk respectively of the other place, to visit the Belgian city of Ieper, or Ypres as it was known during World War I. It was, of course, completely destroyed during World War I and 500 000 people lost their lives in an area of 25 square kilometres.

During our visit we visited firstly the In Flanders Fields Museum, an interactive museum, which was a most moving experience, and then the Tyne Cot Cemetery, which holds the war dead from Paschendale. There were so many graves: 11 976 graves, with 8566 unnamed graves in that cemetery just with the heading 'A soldier from the Great War', or words to that effect, or 'Australian soldier from the Great War'.

At the completion of our visit to the cemetery we attended the Last Post ceremony at the Menin Gate. Since 1928 every night the Last Post has been played at the Menin Gate Memorial. It was an extraordinarily moving experience at which we had the opportunity to lay a wreath in honour of the dead. This ceremony takes place every evening at 8 o'clock — and it has done so since 1928, apart from four years during World War II. It was, as I said, an extraordinary experience.

Slovak Republic: tourism presentation

Mr PULLEN (Higinbotham) — Last Thursday evening I had the pleasure to represent the Minister assisting the Premier on Multicultural Affairs in the other place, the Honourable John Pandazopoulos, at a reception at Llloloma Receptions in Gardenvale. The event was a presentation by the Slovak Republic to encourage more people to visit that wonderful country. The presentation was made by the Danube Travel Agency of Caulfield. We were all given a copy of a CD and some wonderful brochures.

The Slovak Republic was formed on 1 January 1993, after the Czech Republic and Slovakia were split. Australians do not require a visa to visit that country. Among the many people I met were Her Excellency Dr Anna Turenicova, the ambassador of the Slovak Republic; Ivan Sebin, the first secretary; and Father Peter Vojtko, the local community's priest and currently assistant priest at the Sacred Heart Church in Kew. Father Peter has been in Australia for only 14 months and is already a mad Hawthorn supporter.

Another impressive couple I met were Pastor Milo Velebir of the Slovak Lutheran congregation and his wife, Anna. Pastor Milo is in the process of trying to establish a nursing home for elderly Slovak community residents. The only disappointing aspect was that although members of the opposition were apparently invited, I was informed, one from this house who accepted did not front.

Our Forests, Our Future program

Hon. P. R. HALL (Gippsland) — Recently I had the pleasure of meeting with and endeavouring to assist timber industry workers who have been made redundant because of the government's Our Forests, Our Future program. Many of these people come from the central Gippsland and Dandenong forest management areas and they are simply desperate. All those I have been working with have not been employed since 30 June. Consequently, for three or four months they have been without any income whatsoever.

Many of them have to meet substantial repayments for equipment purchases to the order of tens of thousands of dollars per month. Yet these people were promised assistance through business exit packages by the government under the Our Forests, Our Future program. They have not received anything from the government to this point of time, but yesterday Peter Brunt, the chief executive officer of the Victorian Forest Harvesting and Cartage Council, received a letter from the department secretary, Professor Lyndsay Neilson, which set out a process that would see business exit packages ultimately paid out to them.

I want to stress to the government that time is on the wing with this. These people have been without any money at all, they have had no income for the last four months. They are desperate. I am seeking a guarantee from the government that these exit packages will be paid out within a month of Professor Lyndsay Neilson's letter, which was dated 6 October — yesterday's date. I seek a guarantee that these people will be paid, as promised, by 6 November.

Makor library

Mr SCHEFFER (Monash) — I pay tribute to the magnificent work of the Makor Jewish community library located in Monash Province. Library director, Leonie Fliszig, and her staff, Shelley Cohney, Ruth Leonards, Mary Levi and Naomi Saporta, are as welcoming to the many visitors to the library as they are professional.

The Makor library holds a major collection of books on Jewish culture — its history, customs, law, religion, arts and food and indeed anything that grows from and relates to the Jewish people anywhere in the world. The collection is available to everyone, both Jewish and non-Jewish, who has an interest in learning about the Jewish people, their considerable achievements, their frailties, their joys and their suffering. The Jewish community is richly diverse, and the Makor library makes sure it maintains strict impartiality by building a collection that reflects this diversity of opinion.

The Makor library encourages donations through its People of the Book program, a title taken from the description given to the ancient Jews by their Arab neighbours. But perhaps the most impressive of all is the Write Your Story program that helps members of the Melbourne Jewish community write and publish their autobiographies. One compelling result is the anthology *Memory Guide My Hand* that expresses the poignant experiences of ordinary folk caught up in overwhelming and momentous historical events. The Makor library is a great local treasure.

Sport and recreation: facility grants

Hon. J. A. VOGELS (Western) — The Bracks government's anti-local government sentiment has struck again and is costing Victorian councils millions of dollars on projects that are crucial to the municipalities. It is becoming more and more obvious that the cost overruns for the 2006 Commonwealth Games to be held in Melbourne have led to the Bracks government's decision to slash funding to community sport and recreational facilities across the rest of Victoria.

Previously each council could make five applications for a full $50 000 each, totalling $250 000 per council for community facilities funding. Under the new guidelines only three applications are permitted, with only two being to a maximum of $50 000. This reduction in funding is outrageous and demonstrates just how heartless the Bracks Labor government really is. The trend to abandon its responsibilities continues to roll onto local government, and ratepayers will again be

slugged with the rate rises to fund any development or enhancement of community facilities within their municipalities.

The major facilities and pools funding has also been slashed, leaving our rural councils to foot the bill for their ageing community pools. For many years council pools have provided children with leisure activities over summer periods, while also being used to teach them to swim. The maximum number of applications allowed for planning funding grants for feasibility studies has also been halved. I have learned that the Community Support Fund is also undergoing the same treatment and is presently in a state of limbo — —

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

Central Highlands Community Legal Centre

Ms HADDEN (Ballarat) — On 23 September I officiated at the opening of the new premises of the Central Highlands Community Legal Centre (CHCLC) at 34 Victoria Street, Ballarat.

The Central Highlands Community Legal Centre began its much-needed service to the community in 1989, and it continues to have the support of the Ballarat and District Law Association members and the community generally, including the unwavering support of the local Labor MPs. The operational goal of the Central Highlands Community Legal Centre is to empower and support disadvantaged and marginalised people within the Central Highlands region, to help them access the legal and justice system and provide them with legal information to advance and protect their rights and raise their awareness.

The CHCLC has gone through some difficult times over recent years with the federal government pressure for it to either close its doors or amalgamate with the Brimbank Community Legal Centre. I was personally instrumental in facilitating the support of Victoria Legal Aid and the Bracks government's funding to assist in the provision of both the physical and financial resources required to enable the very important community legal centre in Ballarat to find new premises and relocate last April. I wish the committee of management, the staff and the volunteers of the Central Highlands Community Legal Centre every success to build on its proven strengths and great achievements over the past 14 years.

Chinese Community Social Services Centre

Hon. H. E. BUCKINGHAM (Koonung) — Along with other state parliamentarians I was delighted to attend last Thursday the opening of the new premises of the Chinese Community Social Services Centre in Box Hill by the federal Minister for Citizenship and Multicultural Affairs, the Honourable Gary Hardgrave.

Since 1992, when it commenced with one part-time worker and a budget of $30 000, the organisation has grown to provide a range of home and community care programs, community settlement services and community aged care programs for the Chinese community in the eastern suburbs. The various programs are funded by both the state and federal governments.

The organisation's staff and volunteers are bilingual and include speakers of at least five different Chinese dialects. This greatly enhances the services it provides, particularly to elderly clients who may have very limited English. Support for Chinese elderly citizens clubs and clients includes seven-day-a-week activity sessions at centres located in Burwood, Doncaster and Mulgrave. Transport to these sessions is also provided for participants. Additionally, a personal and home care program is provided for Chinese frail and aged people in their homes.

The Chinese community is a significant ethnic group with over 17 000 people who were born in China or Hong Kong resident in the Manningham, Whitehorse and Monash local government areas. The Chinese Community Social Services Centre is able to provide a targeted and responsive service to these people in their own languages. I commend the Chinese Community Social Services Centre for its excellent range and quality of services — —

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

Murray River: management

Hon. B. W. BISHOP (North Western) — I have been contacted by the Merbein District Irrigators Council (MDIC), which was quite dismayed about the recent actions of the Murray River managers in allowing the discharge of highly saline drainage water, which is also infested with European carp, from Lake Hawthorn directly into the Murray River.

This water was discharged through an earthen channel which enters the Murray River only a few hundred metres upstream from the Merbein pumping station, and there are at least two private diverters' pumps between the discharge point and the Merbein pumps.

There are other ways to control the level of Lake Hawthorne, and one of these is a purpose-built

pumping station which discharges to the Wargan evaporation basin. These pumps sat idle while the lake was lowered through the channel into the river. There are guidelines which the river managers must adhere to in sending this water into the river. The MDIC is not saying these guidelines were not followed; it is saying the guidelines are out of date and have no place in today's environment.

The irrigators seek an assurance from the river managers that the channel from Lake Hawthorn to the Murray River will not be used again in this way and that the guidelines be reviewed to reflect concerns raised in documents such as *Living Murray*, the government's green paper, catchment management authority reports and other reports.

Community Safety Month

Hon. C. D. HIRSH (Silvan) — I want to talk about Community Safety Month, the month of October, with the first week being Crime Prevention Week. The Drugs and Crime Prevention Committee, which I chair, is involved in two references around that issue at the moment. The second week is Emergency Services Week, and the focus will be on the contribution that emergency services make to the safety of the community. The third week is Injury Prevention Week when people need to be aware of their own safety and the safety of other members in the community to ensure that injuries do not occur. The last week is Work Safe Week, and the issues of occupational health and safety will be investigated and discussed.

Despite the fact that under the Bracks government there is 20 per cent less crime in Victoria than the national average, crime and violence still concern many people. Crime Prevention Week is of particular importance, especially to members of the aged community who often feel very threatened just by being near groups of people. I commend Crime Prevention Week to the house.

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

Alert Digest No. 7

Ms ARGONDIZZO (Templestowe) presented *Alert Digest* No. 7 of 2003, together with appendices.

Laid on table.

Ordered to be printed.

PAPERS

Laid on table by Clerk:

Interpretation of Legislation Act 1984 — Notice pursuant to section 32(3)(a) in relation to Statutory Rule No. 76.

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

Bass Coast Planning Scheme — Amendment C8.

Bendigo — Greater Bendigo Planning Scheme — Amendment C4.

Dandenong — Greater Dandenong Planning Scheme — Amendment C51.

Darebin Planning Scheme — Amendment C42.

Hepburn Planning Scheme — Amendment C14.

Hume Planning Scheme — Amendment C47.

Loddon Planning Scheme — Amendment C10.

Melbourne Planning Scheme — Amendment C75.

Mornington Peninsula Planning Scheme — Amendment C7.

Murrindindi Planning Scheme — Amendment C11.

Stonnington Planning Scheme — Amendment C25.

Yarra Planning Scheme — Amendment C69.

Yarra Ranges Planning Scheme — Amendment C14.

Rural Finance Act 1988 — Treasurer's directive of 28 September 2003 to the Rural Finance Corporation.

Statutory Rules under the following Acts of Parliament:

County Court Act 1958 — No. 109.

Supreme Court Act 1986 — Corporations (Ancillary Provisions) Act 2001 — No. 107.

Supreme Court Act 1986 — Interpretation of Legislation Act 1984 — No. 108.

Tobacco Act 1987 — No. 106.

Victorian Civil and Administrative Tribunal Act 1998 — No. 110.

Subordinate Legislation Act 1994 —

Minister's exception certificates under section 8(4) in respect of Statutory Rule Nos. 107 to 110.

Minister's exemption certificate under section 9(6) in respect of Statutory Rule No. 106.

Water Act 1989 —

Campaspe Deep Lead Water Supply Protection Area (Groundwater) Management Plan 2003.

Katunga Water Supply Protection Area (Groundwater) Management Plan 2003.

Minister's Order of 18 September 2003 declaring a water supply protection area for Mid Loddon.

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

Albury-Wodonga Agreement (Repeal) Act 2003 — Sections 4, 5, 6, 11, 12, 16 and 17 — 2 October 2003 (*Gazette No. G40, 3 October 2003*).

Control of Weapons and Firearms Acts (Search Powers) Act 2003 — Remaining provisions — 5 October 2003 (*Gazette No. G40, 3 October 2003*).

Dandenong Development Board Act 2003 — 20 October 2003 *(Gazette No. G40, 3 October 2003)*.

HUMAN SERVICES (COMPLEX NEEDS) BILL

Second reading

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

That the bill be now read a second time.

In so doing I would like to indicate to the house that this is an important piece of legislation which will deal with some of the most disadvantaged members of the community and the way in which we will provide for their care needs in the future. It provides a legislative framework for this to happen. As the bill was not amended in the Legislative Assembly and as the bill does not require a statutory majority, in accordance with sessional order 30 I suggest the second reading be incorporated into *Hansard*.

Second-reading speech as follows incorporated on motion of Mr GAVIN JENNINGS (Minister for Aged Care):

In recent years, concerns have been raised by a range of service providers, support organisations and individuals including the Public Advocate, presidents of the Mental Health Review Board and Intellectual Disability Review Panel, the courts and police about how very difficult it is to provide services to a small but very significant group of Victorians with extremely complex needs.

This group has been described as disorganised, sometimes dangerous, with very high levels of need and not easily fitting within the legislative framework or service provision model for any one disorder or diagnosis. The service system pressures in relation to this population continue to escalate.

Responding effectively to this group has been an ongoing issue over several years and has often been visited without successful resolution. The group of people considered to have complex needs are those adolescents and adults who may experience various combinations of mental illness, intellectual disability, acquired brain injury, behavioural difficulties, family dysfunction, and drug and alcohol abuse.

When engaged with the service system, these individuals characteristically draw on significant resources — not only from health and welfare services, but also from a range of emergency services, agencies and other government and funded organisations. Frequently, the service response for these individuals is 'crisis driven', unplanned and uncoordinated. The responses often deliver limited outcomes for the individual, their families, and the wider community.

The government has recognised that there is an urgent need for new solutions.

I want to thank the stakeholders who have been so actively involved and committed to finding these new solutions. Service providers right across the human services system, advocates, representatives from the courts, police and family members and carers have worked together with officers from the Department of Human Services and the Department of Justice to grapple with the issues and forge a new approach.

A profiling exercise undertaken during the development phase of this bill identified approximately 220 Victorians aged 16 years and above with multiple and complex needs. While this number provides a snapshot of the population at a single point in time, the level of extraordinary need that defines the group will ensure that the population will always be small. The key characteristics and features of this group are:

It is a relatively young population with 44 per cent of individuals aged between 18 and 35 years; men make up almost two-thirds of the group;

All within the group have two or more 'presenting problems' that may include mental illness, intellectual disability, acquired brain injury, or significant drug and alcohol misuse;

The group present significant levels of risk to the community, to staff and to themselves through challenging behaviours that include aggressive and assaultive behaviour, as well as self harming, and risk taking;

Almost all of the individuals were reported to have harmed themselves, staff or a member of the community on at least one occasion over the previous 12 months;

The group are very high volume users of emergency services, particularly police, ambulance and hospital emergency services;

A striking feature is the level of contact with the criminal justice system — 71 per cent of the group have current or past contact with the adult or juvenile criminal justice system;

Housing arrangements vary across the population but lack of stability in housing is marked and 35 per cent of individuals were reported to be homeless or living in short-term or crisis accommodation;

Social isolation also features strongly with 91 per cent of individuals noted to be isolated with very few having any regular contact with family;

Finally, more than half of the group were noted to have chronic health problems, often related to their chaotic and unstable lifestyles.

While the health, housing and welfare service system works well for most people and improvements in the range and availability of specialised services targeted to specific needs have been introduced, a coordinated response to this vulnerable population is lagging behind.

The increasing service system pressures experienced by the health, welfare and housing sectors, the overrepresentation of this group in the criminal justice system and the risk to individual clients and to community safety have driven a range of attempts at providing an improved response.

A number of recent initiatives have focused on particular elements of the multiple and complex needs problem. Strategies such as treatment approaches targeting dual mental health and drug or alcohol abuse, or improving assessment and interventions for individuals with an intellectual disability within the juvenile justice system are important initiatives that go some way to tackling the problems for some within this high needs group.

The comprehensive shift to community-based service models, the move away from therapeutic programs with longer term treatment and care options and the emergence of increasingly prevalent health and welfare issues, such as the growth in the serious misuse of alcohol and drugs, have all contributed to what has emerged as a new public policy challenge.

It is now time to confront the need for change — to depart from program boundaries and establish an overarching responsibility and capacity to direct resources in relation to this client group with the primary objective of better services. We need to draw on the existing expertise and high-quality services and practitioners across our health, housing and welfare services for the primary benefit of this group.

Many stakeholders argue that while the majority of these clients will have long-term and high-level needs for services, often at greater cost than the majority of clients, outcomes in relation to health and wellbeing can be significantly improved.

Victoria is not alone in confronting this challenge. Other jurisdictions within Australia and internationally are struggling with similar issues.

A new approach will be based on four key findings:

individuals with multiple and complex needs require access to care, support and accommodation appropriate to their needs — regardless of program specific eligibility requirements;

clear leadership by the Department of Human Services, with involvement of all aspects of its directly delivered and funded sector services is necessary to achieve improved outcomes;

a forum and process with formal authority is required to bring together relevant providers and experts to plan for and deliver a coordinated, individualised service response; and

comprehensive, multidisciplinary assessment of need should inform this process.

The new model proposed will deliver a specialist time limited intervention that aims to:

stabilise housing, health, social connection and safety issues;

provide a platform for long-term engagement in the service system; and

pursue planned and consistent therapeutic goals for each client.

The introduction of this bill is critical to the establishment of the multiple and complex needs service model. The bill establishes client eligibility criteria as well as the multiple and complex needs panel and its functions. It will be particularly important to ensure the panel and multidisciplinary assessment service are able to authorise the collection, use and disclosure of relevant client level information to facilitate comprehensive assessment of needs and an informed and coordinated service response for the primary benefit of the eligible individual.

Extensive consultation with stakeholders has informed both the development of the multiple and complex needs service response and this bill.

The major elements of the bill are:

Establishment of a multiple and complex needs panel

The bill establishes a multiple and complex needs panel to consider referrals for assessment and determine care plans for the support and stabilisation of eligible persons. Participation in the system will be voluntary.

The establishment and membership of the panel outlined in the bill will give encouragement to service providers to 'go the extra mile' to cooperatively provide assistance to one of the most vulnerable groups in the state.

The bill clearly defines the panel's key functions and the panel's constitution — including the requirement that the chair be appointed by Governor in Council and members appointed by the minister. The Secretary of the Department of Human Services will be an ex officio member.

Referrals to the multiple and complex needs panel

The bill provides that the threshold for eligibility for services is very high and is targeted at those whose needs are acute and complex. On this basis, the bill defines very specific eligibility requirements to limit access to this service response to only those with exceptional needs. These criteria reflect the characteristics of the individuals profiled during the development of the proposed bill.

To ensure that 'net widening' does not occur, the bill also requires that only the Secretary of the Department of Human Services may refer eligible persons to the panel. In effect this will mean that, while any service provider, government body or individual may propose a referral, only the secretary may make a referral to the panel.

I have requested the Secretary of the Department of Human Services to ensure that appropriate systems of internal review are established should an individual seek a review of a decision. The bill also contains a provision to ensure that a

person may involve an advocate or friend in any aspect of the decisions made by the secretary or the panel.

Assessments and care plans

Often people with multiple and complex needs may not have experienced comprehensive, multidisciplinary assessment or thorough service planning. Sometimes assessments have been one dimensional and frequently disputed from other perspectives.

Consequently, the bill provides that the panel may refer a person for a comprehensive assessment of their needs from an agency with whom the Secretary of the Department of Human Services has an agreement. Importantly, the multidisciplinary assessment service will be required to recommend a care plan to the panel that will identify the supports required to create a stable environment for the individual. The creation of these components and processes in legislation establishes both a framework and expectation that will encourage better service participation.

The bill provides for the sort of comprehensive case coordination that facilitates proper engagement with service providers and ensures that the providers themselves have an appropriately holistic view of the individual's needs. In determining a care plan, the bill also requires that the panel identify a care plan coordinator. Through the provision of intense support and careful coordination of services, this position will be critical in ensuring the successful implementation of the care plan.

Information disclosure

As the objective of the service model is to assess and develop a care plan for the primary benefit of each individual, access to and sharing of relevant client information is critical. Without the creation of this capacity through legislation, the necessary exchange of information may not occur. As a result, comprehensive assessment of the individual's needs would not be achieved and the integrity and potential effectiveness of any plan would be severely compromised.

Victoria has significant protections in place for the privacy of personal information and health information.

Those provisions are working well. However, the needs of some individuals and their involvement with the health and welfare sector together with the justice system require information sharing across the spectrum of services.

This bill specifically allows service providers to disclose information to the panel and assessment service about a person in their best interests.

Generally, in order to ensure that comprehensive information exchange can take place within the best interests of the eligible person, the bill provides specific authority to allow collection, use and disclosure of information relating to an individual across the service spectrum.

The bill clearly specifies the very limited purposes for which information can be exchanged.

These relate to the determination of eligibility, the completion of a multidisciplinary assessment, the determination of a care plan and the implementation, monitoring and review of the plan.

The bill does not compel service providers to exchange information, rather it allows them to make a professional judgment based on what they believe will be in the best interests of the individual. This will be a paramount consideration.

The nature of the client group means that much of the information disclosed will be particularly sensitive. This bill aims to achieve an appropriate balance between the protection of personal information and the best interests of the individual.

In acknowledgement of the importance of protecting the privacy of personal information, the bill incorporates clear confidentiality provisions. These stipulate that information relating to an eligible person must not be disclosed inappropriately. Breaches of these requirements will incur penalties. Unnecessary disclosure of a family member's information will also be an offence under the bill.

These prohibitions apply in addition to those existing sanctions contained in the Information Privacy Act 2000 and the Health Records Act 2001.

Notification measures

The group of individuals whose needs will be addressed by this bill is small and highly vulnerable. Their characteristics include significant levels of impairment in a number of areas, high-risk behaviours and exceptional need. As I have indicated previously, their experiences of the broader system has largely been characterised by fragmented service provision and sometimes exclusion from services. The multiple and complex needs service response must be mindful of the individual's previous experiences of the service system.

Given that the bill permits a broader exchange of information than currently occurs, it is critical that individuals being considered for referral to the panel are informed not only about the purpose of the referral, but also of information exchange requirements and their ability, at any time, to refuse to participate in the process.

To this end, the bill contains two very explicit notification provisions. The first of these provisions requires that the individual is notified in writing and in person about the service response, that information may be sought from persons or organisations for a specified purpose and that they are able to refuse to participate before the secretary refers them to the panel.

The bill also requires the panel to formally notify the person when it has determined, varied or terminated a care plan. At these points the individual must also be informed that service providers identified in the plan may share and use personal and health information if it is in the best interests of the person and would help them implement the plan. A copy of the care plan must be provided to the individual within 14 days of its determination.

To facilitate proper notification, the bill requires that information be provided to the individual in writing and in person in a manner they will best be able to understand. Many individuals in this group already have advocates, guardians or carers from whom they can obtain separate advice on the implications of their participation in the service response. The bill acknowledges their right to receive advice and support or be accompanied to meetings.

Refusal to participate

While some individuals will be very explicit in their refusal to participate in the service response, others will have types of impairment and behaviours that will make their intentions less clear. As such, the determination of whether an individual is refusing to participate at any point in the service response will be a professional judgment made by the secretary or their representative, the panel, the multidisciplinary assessment service or the care coordinator.

Sunset

Finally, the bill contains a sunset clause which will come into effect three years after the panel is appointed. The multiple and complex needs service response is, as I have previously stated, a new and innovative approach to addressing the needs of some of the most vulnerable people in our community. A sunset provision will ensure that the model and its supporting legislation undergo an appropriately rigorous evaluation to determine the blueprint for future service responses.

People with multiple and complex needs are among the most vulnerable in the state. This bill provides an opportunity for Victoria to lead the way in improving service responses to, and consequently the wellbeing of, this exceptionally high-needs group.

I commend the bill to the house.

Debate adjourned on motion of Hon. D. McL. DAVIS (East Yarra).

Debate adjourned until next day.

NON-EMERGENCY PATIENT TRANSPORT BILL

Second reading

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

That the bill be now read a second time.

I indicate to the house that this bill deals with non-emergency transport within the health care industry, and indeed as the bill was not amended in the Legislative Assembly and does not contain a section 85 statement in accordance with sessional order 30 I seek to have it incorporated.

Second-reading speech as follows incorporated on motion of Mr GAVIN JENNINGS (Minister for Aged Care):

Today the Bracks government delivers on its commitment to introduce legislation to regulate non-emergency patient transport. Patients, and the health professionals who care for them, have a right to be assured that the patient's health and safety will not be compromised while the patient is being transported, for example, from one hospital to another in a planned way. Such an assurance is not possible in the current largely unregulated environment of non-emergency patient transports. The new system of licensing and regulation described in the bill will provide this assurance.

Our public ambulance services are, and will continue to be, the sole providers of emergency ambulance responses. However, we acknowledge the important role played by private organisations in providing non-emergency patient transport services.

Non-emergency patient transport services primarily involve work such as transporting patients between hospitals and from hospital to home. Patients transported by private providers are often frail requiring transport via stretcher and at times require clinical care and monitoring while in transport. The current system of simply requiring providers to hold a licence issued by the taxi directorate does not provide an effective means of ensuring that those providing such transports have the clinical skills and equipment required to protect the patient's health and safety. While the new system to be established is necessary to provide an assurance of quality and safety, we do not wish to place undue burdens on those organisations that provide these services. So, for example, the administrative burden of applying for a licence from the taxi directorate will be removed.

The bill also includes amendments to the Ambulance Services Act (1986) to improve the ability of the public ambulance services to bill those members of the community who are liable to pay for ambulance transport.

Essentially the bill provides for the regulation of the non-emergency patient transport sector through the establishment of a licensing system. Under this system, the operation of an unlicensed private non-emergency patient transport business will be an offence. Standards will be set in regulations to protect the safety and wellbeing of patients.

In developing this bill, care has been taken to ensure that only transport services offering specialised clinical care or stretcher transport will be required to comply with the new system of licensing and regulation. So, for example, community organisations who assist in transporting people to medical services will not be required to obtain a licence if they are not offering to provide clinical care to patients while they are being transported.

The licensing and monitoring functions will be vested in the Secretary to the Department of Human Services. The focus of the new regulatory structure will be the clinical and patient safety aspects of the non-emergency transport services.

Currently, private providers must comply with the provisions of the Transport Act 1983 and regulations made pursuant to that act. To minimise the regulatory burden imposed on the private providers, the bill exempts licensed patient transport services from the existing requirement to obtain a commercial passenger vehicle licence under the Transport Act.

The bill provides for an assessment to be undertaken of the fitness of the principals of any business seeking a licence, the suitability of the vehicles and equipment, and the suitability of operating arrangements in determining whether a licence to operate a non-emergency patient transport service should be granted.

The bill enables the making of regulations to set minimum standards for non-emergency transport that may vary according to the type of patient to be transported. For example, a higher skill-set of staff may be required to transfer

patients who require a high level of clinical monitoring. Regulations are intended to cover areas such as:

the kinds of patients who may be transported and with what level of care;

safety, cleanliness and hygiene;

staffing including the minimum number of staff required for specified types of transports, as well as requirements as to their qualifications and clinical accreditation;

maintenance of vehicles and equipment; and

quality assurance and clinical supervision.

All proposed regulations will be subject to a detailed cost-benefit analysis which will be undertaken in consultation with the key stakeholders in this sector.

Although the public ambulance services will be exempted from the requirement to obtain a licence, they will be required to comply with the regulations. The obligation to meet the regulations applies to all non-emergency patient transport services, including public ambulance services and public and denominational hospitals. This will ensure patient safety is protected as well as ensuring private providers are not placed at a competitive disadvantage.

Some private providers also offer stand-by services at public events to assist if a participant is injured. In the event a participant is injured, the provider may render clinical care with no transport required or may transport the participant to an on-site facility or to a hospital. The bill enables licensed providers of such services to apply for accreditation for the provision of such stand-by services. The regulations will therefore also cover the standards to be met by those who have such accreditation.

The decision as to whether such stand-by services or other first-aid or medical services should be provided at an event will remain the responsibility of the event organiser. However, if an event organiser does engage the services of an accredited private provider they will have the assurance that the provider has met minimum standards.

The bill contains a variety of penalty and enforcement provisions, including powers to suspend or cancel a licence if a proprietor has failed to, or is not likely to continue to, carry on the patient transport services in accordance with the act, regulations or any conditions of licence.

It also provides that it is an offence to carry on a non-emergency patient transport business if the business is not licensed and that it is an offence to contravene a condition of licence. It will also be an offence to supply information in connection with the legislation that is false and misleading. Breaches of regulations may also attract a penalty of up to 20 penalty units.

Authorised officers under the bill will be given powers to inspect vehicles and records used by non-emergency patient transport services to determine whether the legislation and regulations are being complied with.

In addition to its primary focus of establishing a system of regulation for non-emergency patient transport services, the bill also includes amendments to the Ambulance Services Act 1986. The public ambulance services rely to a significant degree on user charges. The bill enhances the ability of the public ambulance services to collect such charges by clarifying that a patient who receives emergency ambulance transport must pay the requisite fee, whether or not the patient has consented to the transport.

The secretary currently has the power to set fees for the ambulance services and instructs the services about those members of the community who are eligible to receive free transport. The secretary will retain this power. These changes in no way alter the current entitlements of pensioner and health care card holders to free ambulance transport.

In an emergency situation it is often difficult or impossible to obtain information from a patient about their eligibility for free transport or other information necessary to determine the patient's billing details. As a result ambulance services require patient billing details from hospitals. The bill amends the Ambulance Services Act 1986 to expressly allow hospitals to provide this information to the ambulance services.

I am grateful to the many health professionals, the private providers of non-emergency patient transport services and the public ambulance services who have provided valuable input into the development of the licensing system proposed by this bill.

I commend this bill to the house.

Debate adjourned on motion of Hon. D. McL. DAVIS (East Yarra).

Debate adjourned until next day.

SUPREME COURT (VEXATIOUS LITIGANTS) BILL

Second reading

For **Hon. J. M. MADDEN** (Minister for Sport and Recreation), Mr Lenders (Minister for Finance) — I move:

That the bill be now read a second time.

Second-reading speech as follows incorporated on motion of Mr LENDERS (Minister for Finance).

The bill amends section 21 of the Supreme Court Act 1986. This section enables the Supreme Court to make a vexatious litigant order where a person has habitually, persistently and without reasonable grounds instituted vexatious legal proceedings in the court, an inferior court or a tribunal. Upon making such an order, the Supreme Court can prohibit a vexatious litigant from commencing or continuing legal proceedings in any court or tribunal in Victoria without leave.

Section 21 is an important tool for protecting the courts and court users from those individuals who are pursuing a collateral purpose or abusing the legal system for their own ends.

In *Kay v. Attorney-General* (2000) VSCA 176, the Court of Appeal found that legal 'proceedings' means civil legal

proceedings only and does not include criminal proceedings. This case fundamentally changed the legal status quo with respect to vexatious litigants. It reversed the effect of legal precedent dating from 1930, which is that both civil and criminal proceedings can be taken into account by the Supreme Court in considering whether to order that a person be declared a vexatious litigant.

As a result of this decision, the Supreme Court cannot take a person's history of instituting criminal proceedings into account when considering whether he or she should be declared a vexatious litigant. Further, any person found by the court to be a vexatious litigant can only be prevented from commencing proceedings without leave in the civil jurisdiction of the courts. Under the reasoning adopted in Kay, a litigant declared to be vexatious will not be prevented from commencing proceedings in the criminal jurisdiction of the courts.

This government is committed to protecting the right of litigants to access the courts and the Victorian Civil and Administrative Tribunal to resolve disputes. However, maliciously brought criminal proceedings can result in significant disruption to the administration of justice and waste valuable court resources. They also have the potential to cause considerable harm to parties who are subject to such proceedings. For these reasons, it is imperative that the Supreme Court has an appropriate range of powers available to it to respond to individuals who are manipulating the court system for their own ends.

The bill restores the Supreme Court to the position it was in prior to the decision in Kay. It clarifies that the Supreme Court can have reference to civil and criminal proceedings initiated in a state court or tribunal when considering whether to declare a person as a vexatious litigant. The bill also enables proceedings that have been instituted prior to its commencement to be taken into account by the Supreme Court. This means that people with a prior history of abusing criminal processes will not be immune from the effect of the bill.

This bill appropriately balances the right of individuals to access the legal system with the need to protect courts and the community against the unnecessary disruption arising from the repeated institution of groundless proceedings. It will ensure that people who are seeking to abuse the criminal justice system for their own ends will not be able to initiate proceedings without the leave of the court.

I commend this bill to the house.

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

Debate adjourned until next day.

VICTORIAN INDUSTRY PARTICIPATION POLICY BILL

Second reading

For **Hon. M. R. THOMSON** (Minister for Small Business), Mr Lenders (Minister for Finance) — I move:

That the bill be now read a second time.

Second-reading speech as follows incorporated on motion of Mr LENDERS (Minister for Finance):

I am pleased to introduce the Victorian Industry Participation Policy Bill into the house.

The Bracks government introduced the Victorian industry participation policy in April 2001 to encourage increased local industry participation in major government procurement contracts, projects and infrastructure, investment attraction and community facilities grants.

We did this because for far too long, a culture has existed in Australia that assumes that foreign goods are best. In spite of the world-class capabilities of our local industries, it is a sad irony that often local products find it easier to win markets overseas than here.

The VIPP is about changing this culture of 'foreign is best'.

The government is well aware of how important winning government business can be to a firm's credibility in global markets. The VIPP aims to give local companies a fair go. It aims to give them a fair opportunity to participate in major government procurements and projects.

Yet at the same time, the VIPP is not protectionist and does not involve price preferencing. It is therefore fully consistent with the Australian industry participation framework and with our international obligations.

The VIPP applies whenever the Victorian government's funding for a project, procurement or grant exceeds $3 million in metropolitan Melbourne and $1 million in regional Victoria.

Short-listed bidders for these activities are required to provide a VIPP statement, which provides information on their estimation of local content, employment and skills and technology transfer outcomes should the bid be successful.

For major projects over $50 million in Melbourne and over $5 million in regional areas, short-listed bidders must submit a VIPP implementation plan that identifies how they intend to meet their VIPP targets.

Where there is no clear preferred bidder and two or more bids offer the same value for money, the bid with the best VIPP statement will be selected — that is, the VIPP will be used as a secondary consideration in the selection process.

Where there is one bidder that clearly offers the best value for money, that bidder will be successful, provided it has completed the required VIPP information and this information represents a genuine attempt to consider local content.

The successful bidder's VIPP information is included in the contract and is reported on during the life of the contract.

By using government procurement to increase opportunities for local industry participation, we can generate more jobs for Victorians and stimulate business growth and investment.

Even in its first full year since its inception, the Victorian industry participation policy has already been applied to contracts valued at over $816 million. In 2001–02 the

Victorian industry participation policy was applied to 46 contracts. Of these 46 contracts, 34 were in regional Victoria and valued at $614.4 million.

Victoria is an Australian leader in this area, with many other state governments visiting Victoria to see how we undertake the Victorian industry participation policy.

Now we are taking this next step, giving greater prominence to the policy through this bill.

This legislation shows that we are serious about this policy.

The bill:

gives legislative force to the development and implementation of the Victorian industry participation policy; and

requires reports to Parliament on the policy's implementation and government agencies' compliance with it.

Through this bill, the government aims to strengthen our commitment to local content by reinforcing the application of the VIPP across government departments and agencies.

We want to achieve increased industry participation and employment outcomes for Victorian and Australian companies wherever it makes good commercial sense.

We want Victorian, Australian and foreign companies to know that in doing business in Victoria, the Victorian Parliament expects them to seriously explore local capability, and where they are satisfied that Victorian and Australian companies offer value for money against world's best, then they will stick to contract commitments to that effect.

Agencies will monitor contracts to which the VIPP applies, and they and I will report annually to this place on progress.

I commend this bill to the house and encourage the house to monitor, with me, the progress of the VIPP in future years.

Debate adjourned for Hon. BILL FORWOOD (Templestowe) on motion of Hon. Andrea Coote.

Debate adjourned until next day.

HERITAGE (AMENDMENT) BILL

Second reading

For **Hon. J. M. MADDEN** (Minister for Sport and Recreation), Mr Lenders (Minister for Finance) — I move:

That the bill be now read a second time.

Second-reading speech as follows incorporated on motion of Mr LENDERS (Minister for Finance):

In this bill the Bracks government is meeting its election commitments to legislate to enforce tougher penalties for those who breach heritage permits.

Victorians are passionate about their cultural and natural heritage. They enjoy and celebrate living in a state with a long and proud history, the heritage of which surrounds them in their daily lives. The conservation and care of remnants of the past engenders a sense of continuity and confidence in the future.

The Victorian community has supported the conservation and preservation of all types of heritage, not just the grand buildings of the 19th century such as the building we are standing in but also other types of heritage places which reflect our shared history and values.

Places such as the Olympic swimming pool, which is not only an icon of modern architecture but is also a place that is remembered because of its association with the 1956 Olympic Games or Bells Beach, which is an international icon of the Australian surfing tradition, have been recent popular inclusions in the Victorian Heritage Register.

The Bracks government strongly supports the conservation and protection of Victoria's cultural heritage. In the 2003–04 budget the government announced a commitment of $4 million for each of the next two years to support community heritage projects. The government also supports the pursuit of the Victorian heritage strategy.

The Heritage Act 1995 was assented to on 5 December 1995. One of its functions is to provide for the protection and conservation of places and objects of cultural heritage significance. This bill makes a number of changes to enhance the effectiveness of the act. These relate to:

level of penalties;

making of orders; and

clarified powers of entry to enable the registration of significant heritage places.

Levels of penalties

The penalties provided in the Heritage Act have not been reviewed since the act was passed in 1995. The government believes that the deterrent effect of these penalties has diminished over time. The current penalties do not reflect just how seriously the government and the people of Victoria view the loss of a heritage place. They are a non-renewable resource and cannot be repaired if significantly disturbed or destroyed. A loss is a loss forever.

A simple thing as a person fossicking for objects in an archaeological site may not seem much but the untold damage that is done to the information that is contained in each layer is devastating.

The bill therefore increases penalties under the act to reintroduce their deterrent effect and make it clear that the people of Victoria will not tolerate offences being committed against its heritage.

Making of orders

Currently when a person is alleged to have committed an offence against the act, prosecution is initiated. Should the court find the person guilty of the offence the only option that is available to the court is to bring down a monetary penalty. Whilst this deals with the immediate problem it does not always fix the reason that a prosecution was initiated. In cases

where damage can be rectified, as in the former Robin Boyd house in Camberwell, the court is precluded from requiring reinstatement. Only the Supreme Court can make an order to reinstate. This is costly and as such decisions are made on whether to make an application on the basis of whether the cost is warranted.

Owners have been known to make a decision to carry out works knowing that they would not be forced to do rectification work unless Heritage Victoria took the costly step to go to the Supreme Court for an order. In this way the owner really won and the people of Victoria lost.

This bill will enable the court, if a person has been found guilty or convicted of that offence, to make any order that it thinks appropriate to remedy or restrain the contravention that constitutes the offence.

In this way the government is adding to the deterrent effect of penalties under the act.

Clarified powers of entry

The Heritage Act makes provision for entry into residences by inspectors or persons authorised by the Heritage Council to enable them to do a physical inspection of the residence for the purpose of assessing its cultural heritage significance. However, before an inspector or authorised person can gain entry, the written consent of the occupier is required. This requirement is sometimes impossible to meet because the occupier refuses entry or it is unoccupied and therefore there is no occupier to give written consent.

The proposed amendment provides a clear process in such circumstance. That process provides for entry through an order of the Magistrates Court.

It is not the intention of the amendments to affect the rights of the occupier. The bill requires notification to be provided to the occupier who refuses consent through the requirement that a copy of the application to the Magistrates Court must be provided to the occupier within 14 days of the hearing. The bill is also quite clear about giving the occupier or their representative a copy of the order and what the inspector or authorised person can do once entry has been gained.

This will ensure that decisions are made on whether or not to add the residence to the Victorian Heritage Register on the best available information.

This bill represents the Bracks government's commitment to the protection of the state's cultural heritage, in recognition of the importance placed on that protection by the Victorian community.

I commend the bill to the house.

Debate adjourned for Hon. D. McL. DAVIS (East Yarra) on motion of Hon. Andrea Coote.

Debate adjourned until next day.

AERODROME LANDING FEES BILL

Second reading

Debate resumed from 18 September; motion of Mr LENDERS (Minister for Finance).

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — I am pleased to rise today to speak on the Aerodrome Landing Fees Bill as lead speaker for the Liberal Party. The legislation before the house today mainly applies to the general aviation sector of the aviation industry. To put that in some context, that is essentially the section of the aviation industry dealing with everything excluding the airlines. It includes things like private aviation, business aviation, charter operations, training — which is one of the largest components of the sector — aerial agriculture, and those types of operations, mainly done using light aircraft, defined as aircraft with maximum takeoff weight of less than 5700 kilos, often piston engine, single or twin engine aircraft. So it is the bottom end, if you like, of the aviation industry that will be most impacted by the legislation before the house today.

I would like to set the scene a little as to the sort of situation that the general aviation industry faces in this country. I have been involved in that industry for around 15 years now, the last 12 as a pilot. Over that time I have visited virtually every municipal airport in the state of Victoria and many of the private ones and have flown extensively throughout south-eastern Australia. I have a good feeling for how this legislation is going to impact on the aviation industry, and also a bit of a feel for some of the challenges that this industry faces.

Over the last decade or so that I have been flying in Australia in a number of different aircraft I have seen significant changes in the general aviation industry, including significant increases in operating costs. The operating costs of one of the aircraft I fly, a Cessna 182, which is the aviation equivalent of a Holden Commodore, have increased by 65 per cent to 70 per cent in the last four years, which gives members an idea of the sorts of issues that the industry is facing. Those cost increases have been due to increases in the cost of fuel, maintenance, spare parts and landing fees — which this bill addresses — charges by Air Services Australia, the commonwealth provider of air traffic control services, and that is even before considering factors like fixed costs, such as insurance, which, with aviation, like every other industry, has gone through the roof in the last couple of years.

In the second-reading speech the minister indicated that the Bracks government has had a commitment to seeing a strong aviation sector in Victoria. That is a commitment I welcome, and I hope it is a commitment we will see some action on. Unfortunately the bill before the house today fails to do anything for the aviation sector.

It is worth spending a minute or two to reflect on the state of the aviation industry in this country and the state of Victoria, because Australia is a country which is ideally suited to general aviation. We have vast distances to travel between our centres. We have, on world standards, excellent weather and very good terrain, in terms of no substantial terrain to cover in Australia, where the highest mountain range is only 7000 feet. The country is ideally suited to the use of general aviation. Regrettably it is an industry in this country which is in decline, and that decline has been long term. To look at some statistics reported by the commonwealth Department of Transport and Regional Services through their Avstats system and compare them with some of the Australian Bureau of Statistics figures, in the 12 years spanning 1990 to 2002, the Australian economy grew by 49 per cent in real terms, yet over that same 12-year period, the general aviation industry in this country declined by 13 per cent. As far as Victoria is concerned, for the most recent five-year period for which data is available, 1997–2002, the Victorian economy expanded by a quarter — 26 per cent — yet at the same time the general aviation industry in this state declined by 8 per cent.

Regrettably, it is an industry which is suffering long-term decline, and that is of concern to all who are involved in it. It is interesting that the average age of the Australian fleet of powered fixed-wing aircraft is now 31 years, so the average year of production for a general aviation aircraft in this country is 1972. To draw a parallel with road transport, you can imagine what sort of fleet of cars we would have if the average vehicle on Australian roads was built in 1972. It reflects the sort of problems and issues this industry is facing and simply arises from the fact that from the mid-1980s, due to product-liability issues in the United States, all the major manufacturers ceased manufacturing aircraft. The Australian fleet reflects this fact in that only 8 per cent of it was built in the last 14 years, and 92 per cent of the general aviation fleet — which is around 9000 aircraft — was built prior to 1990.

I have to say that although a number of the factors relating to long-term industry decline are international, many of them are also domestic. The biggest problem in my view is the failure of the general aviation (GA) industry over the last 15 years to speak with one voice. Disparate groups have been putting a variety of positions, often lobbying for vested interests rather than for the interests of the industry as a whole, and regrettably it has suffered. But I think in the last 18 months or so, perhaps the last 12 months, we have seen that change a little, and hopefully as we move forward the GA industry will speak with one voice to its benefit.

The biggest issue that the general aviation industry has faced has been the failure of government over a long period of time, stretching back to the 1960s, to develop a coherent policy and understanding of the aviation sector. Regrettably the bill before the house today is the latest example of that. The legislation demonstrates that the Bracks government has little understanding of the aviation industry in the state; it is totally ignorant of its needs and how it operates.

I turn to the specifics of the bill. I pointed out at the outset that there is already a regime in place in Australia and in Victoria for the levying of landing fees at airports. You can make an argument as to the merits of doing that. In his second-reading speech, the Minister for State and Regional Development in the other place, John Brumby, said there is an obvious link between access to regional areas for aircraft and social benefit in local communities. I am pleased the minister has articulated that belief, and I hope it is something that will be recognised by aerodrome operators throughout the state. A lot of enlightened aerodrome operators in this state do not charge landing fees, because they recognise there are benefits in having light aircraft visit their airports, spend money in their towns, buy fuel at their bowsers, spend a night in their hotels et cetera. There can be significant benefits to local communities that do that.

One of the aircraft I fly, a Beech Baron, costs about $600 to refuel. Pilots will refuel at places that do not charge landing fees. If an airport or a local municipality is inclined to charge a $10 or $20 landing fee in the hope of collecting some revenue from visiting aircraft, they risk driving away business and in turn missing out on the sale of $600 worth of fuel, a $200-hotel room and visitors spending money in their local restaurants and shops.

It can be very short sighted on the part of municipalities to try to charge money directly for landing fees, because in doing so they lose out on the economic benefits that can accrue from having aircraft visit them.

A parallel should be drawn with the road infrastructure which is provided by local municipalities. There has never been nor should there be an attempt by local councils to charge for the use of the local roads they provide. It would be considered outrageous for a municipality to charge a visitor or tourist to drive on their local roads, yet unfortunately the parallel with a local council charging landing fees for visiting aircraft to use their airports is not well understood; and it is to their detriment if they drive business away by the levying of landing fees when their neighbouring municipalities benefit. It is recognised quite widely now that some of the highest yield tourists that visit municipalities come by light aircraft, so if you are driving away that sort of business it is potentially to the great detriment of the local community and the local economy.

But that aside there is already a regime in place for the levying and collection of landing fees by municipalities that choose to charge those fees at the airports they operate. Generally the way the system works is that an aerodrome operator will contract a third party — and the best known third party in this business is a company called Avdata which operates out of Canberra. That company or aerodrome operator sets up a tape recorder at the aerodrome which monitors radio transmissions. When an aircraft uses an airport, more than likely on its arrival it will make a radio broadcast as it is approaching or landing at the field. The registration that is recorded on that tape will then be used for the issuing of an account to the holder of the certificate of registration.

One of the difficulties with this system is that although the bill for a landing fee will go to the certificate of registration holder, more often than not the certificate of registration holder is not the person who was flying the aircraft at the time of its arrival, because the majority of the general aviation aircraft fleet in this country are operated not by their owners but by third parties; they can be wet leased to flying schools, charter operators et cetera. So the person who was actually flying the aircraft is quite often not the person who is named on the certificate of registration. The bills for the landing fees recorded by the tapes are sent to the certificate of registration holders, who, if they act in good faith, will advise the aerodrome operator or Avdata who was actually operating the aircraft. The operator can then levy the account directly to the person who actually incurred the fee. However, that does not always happen.

There can be instances where a certificate of registration holder will say, 'It was not me flying the aircraft that day, but I am not going to tell you who it was'. That means it is not possible for the aerodrome to recover the landing fee it wishes to charge for that particular landing, because it cannot identify the person who was operating the aircraft on any given day.

This legislation will in part address that problem because under the current system if an aerodrome operator wishes to recover a landing fee from a person who landed an aircraft, the only course of action they have is to take civil action in an appropriate court. In order to do so they have to be able to identify the person who undertook the landing and therefore incurred the fee at the aerodrome. The difficulty has been in identifying that person.

This legislation will automatically assign the liability for that landing fee to the certificate of registration holder. It will not absolve the aerodrome operator from taking civil action to recover a landing fee; if a fee is levied and not paid the aerodrome operators will still have to take legal action to recover that fee, but under this legislation they will be able to take that legal action against the certificate of registration holder or their nominated assignee rather than having to identify in the first instance the person operating the aircraft. So it takes one step out of the process for an aerodrome operator, but it does not relieve them of the need to take civil action in the event of a dispute or unpaid landing fee.

The other point I make about the collection of landing fees is the accuracy with which they are collected. It has been a concern of the industry for some time, and I know from my own experience, that quite often the levying of landing fees on certificate of registration holders is inaccurate. It happens time and again with the operators who collect that data at Essendon Airport, where aircraft operators have been incorrectly levied for landing fees. If this legislation is to provide a new framework under which aerodrome operators can litigate to recover landing fees, the organisations that collect landing fee data need to ensure that in future they are a lot more accurate than they have been in the past.

Regrettably the legislation seems to have been very poorly drafted, and the Liberal Party has a number of concerns with it. The first point I raise is the issue of the identification of a certificate of registration holder. Clause 3 of the bill defines 'Aircraft register' as meaning the aircraft register kept under part 3 of the Civil Aviation Regulations. It also defines the 'Civil aviation regulations' and 'holder of the certificate of registration'. In identifying part 3 of the civil aviation regulations the legislation fails to identify a register which is all inclusive of all aspects of the aviation fleet in Australia, because this definition excludes aircraft

which are registered by the Australian Ultralight Federation under its separate system of registration. I believe that is an unintended hole in this legislation.

What the government has done and what the advisers admitted in the briefing is that they picked this bill up wholesale from the South Australian and Tasmanian jurisdictions and simply dumped it in the Victorian Parliament without any regard for things that have changed since the legislation was enacted in those states. As a consequence there are a number of unintended holes in this legislation and a number of unintended consequences in certain provisions as well. I will come to those in a moment.

The second aspect I would like to raise with respect to the aircraft register as identified by this legislation — I hope the government will address this in the minister's response to the second-reading debate — is that the reference to 'aircraft register' is to a register kept under part 3 of the civil aviation regulations. It goes on to define those regulations as being the civil aviation regulations 1988 of the commonwealth. This bill does not make allowance for the latest advice from the Civil Aviation Safety Authority that in the final quarter of this year, which we have now commenced, the commonwealth government will in fact repeal those regulations and impose new regulations. The new section will be part 47 of the civil aviation safety regulations of 1998, which will be enacted from the first quarter next year. So the reference to the civil aviation regulations 1988 in this bill will be redundant, and in making that redundant, the advice I have received is that the whole bill will be redundant because that is the principal hook on which this whole legislation is based — the register established under the 1988 regulations.

When those regulations are repealed later this year, as proposed as part of the regulatory rewrite by the commonwealth, this bill will become redundant. I am amazed that the government has introduced the legislation in this state and made reference to the commonwealth legislation when changes, to be introduced in the current quarter to the commonwealth regulations, are pending.

Clearly the government has not spoken to the commonwealth about what it is doing with its legislation, and we are seeing the consequences. I imagine that if the bill passes in its current form — there has been no suggestion by the government that it will amend that aspect — we will shortly see the government return here to introduce an amendment to the legislation to correct the fact that the commonwealth regulations, on which this whole bill hangs, is about to be repealed by the commonwealth.

The second area and principal concern that the Liberal Party has with the legislation is the definition of 'training flight approach'. Clause 6 of the bill provides that an aerodrome operator may impose a fee in relation to the aerodrome 'for any or all of the following', and it lists a number of things such as landings, take-offs, parking of an aircraft and so on, which are all normal activities for which an aerodrome operator may levy fees. But for the first time it includes a new provision, that an aerodrome operator may charge a fee for a training flight approach.

A training flight approach is defined in clause 2 as:

> … in relation to an aerodrome, means a planned descent to, or in the immediate vicinity of, a runway at the aerodrome, whether or not the aircraft touches the runway, during a flight undertaken for the training or testing of a person as a pilot or member of a flight crew.

For the first time in this country the legislation will give an aerodrome operator the power to charge an aircraft even though the aircraft has not used the services or facilities provided by the aerodrome operator. There is no requirement under the definition of 'training flight approach' for an aircraft to touch down and use a runway if it makes a missed approach or aborts an approach for some reason such as weather; or if it reaches the minima and cannot execute a landing and misses the approach; or if it makes a go-around because the ordinary visual approach is not suitable to land from. Now the aerodrome operator will, for the first time, be in a position to charge the aircraft certificate registration holder even though they have not used any facility provided by the aerodrome.

The Liberal Party says that that is wrong, and it should not be happening. Frankly, if the government understood the legislation, then that would not be happening. The Liberal Party seeks to have the government amend that provision. The reference to 'training flight approach' should not open up the field to such an extent that an aerodrome operator can charge an aircraft for effectively not using the facilities. If that definition is to be included in the bill, it must be amended in a way which allows an operator to charge only if an aircraft uses facilities provided by the aerodrome operator.

In responding to the second-reading debate in the other place the minister said that this issue was satisfactorily addressed. The Minister for State and Regional Development in the other place is acting on extremely bad advice. It has been a common element of the

progress of this legislation since it was introduced in the other place last month that the government, its department and its advisers have not understood what the legislation does or how it works.

The briefing that the shadow minister, the honourable member for South-West Coast in the other place, the Honourable Denis Napthine, and I had on this bill some weeks ago was without doubt the worst bill briefing I have ever had in the time I have been in this Parliament. The departmental officers were just sitting there and looking at each other when they were asked questions, because they did not have a clue what some of the clauses do — and it was outrageous to have the ministerial adviser do the same!

That demonstrates and goes back to the point I made earlier — that this is an industry which is not understood by the government. It is an industry the state government, because primarily it is a federal issue, should keep out of because it does not understand it. Because of that, the house has before it this legislation today.

The Liberal Party calls on the government to amend the definition of 'training flight approach' to ensure that a charge can only be levied where an aircraft actually uses a facility provided by an aerodrome operator. To have any other situation in place is simply not acceptable or a fair way of providing for the recovery of costs by aerodrome operators.

In the second-reading debate the minister made an effort to respond to a number of statements made by the Honourable Denis Napthine as the shadow minister. In responding to the 'training flight approach' issue the minister said:

> Moreover, from a technical perspective, a further amendment of the definition to incorporate a specific reference to the 'aircraft using the airport facilities' would exclude particular training flight approaches using GPS equipment that is not owned by the airport but the use of which incurs a cost to the airport.

That is factually incorrect. It is of great concern that the Minister for State and Regional Development is relying on advice which is factually incorrect. It again demonstrates that the bureaucrats in his department do not know what they are talking about, and the minister needs to go back and get better advice. To refer to the use of 'GPS equipment that is not owned by the airport but the use of which incurs a cost to the airport' demonstrates that the bureaucracy that is supposed to be advising the minister does not have a clue what it is talking about.

The GPS network is provided free of cost to civilian users by the US Department of Defence. There is no cost to any aerodrome operator if any aircraft does a GPS approach at an aerodrome anywhere in the country. You could fly 1000 GPS approaches at any nominated aerodromes in the state and there would be no cost incurred as a result by an aerodrome operator.

For the minister to quote in the second-reading response advice from his department stating otherwise is factually incorrect. I invite the minister to reflect on what he said in that response and correct the record because in quoting that advice, the minister got it wrong. The other aspect I pick up was in the minister's second-reading response where he referred to more departmental advice. He said:

> There is a cost to airport owners when navigation aids owned by the airport or approaches to the airport using airport-funded approach procedures are used by aircraft.

That is factually incorrect, and it demonstrates that the minister and the department do not know what they are talking about. No cost is incurred by an airport operator if someone uses a navigation aid at that airport even if the navigation aid is provided by the airport, because there is a commonwealth requirement that every navigation aid operate 24 hours a day, 7 days a week. You do not turn on or off navigation aids when an aircraft wants to use them. The commonwealth requirement is that the aids must operate 24 hours a day, 7 days a week and there is no cost to an aerodrome operator if an aircraft picks up the signal from that navigation aid and flies an instrument approach. So again, in relying on the department's advice, John Brumby has got it wrong, and the government must correct this.

The bill briefing and subsequent debate in the lower house suggest that the government is all over the place on this legislation. The minister concluded his second-reading speech by saying:

> I commend this bill to the house and encourage the house to support the continued development of Victoria's aviation industry and infrastructure.

I have to say that this bill does nothing for the aviation industry.

It is interesting to note that the government has changed its position on this legislation. After the minister talked about supporting the development of Victoria's aviation industry in his second-reading speech, he then put out a press release titled 'New airport legislation to benefit country ratepayers'. So we go from saying that the legislation he introduced is to the benefit of Victoria's

aviation industry and infrastructure to later saying that it is for the benefit of country ratepayers.

The other aspect of the second-reading speech that is highly questionable is the minister's claim that the bill has strong support across the industry, and I will come to the issue of industry support and consultation in a moment. But between making that claim in the second-reading speech and putting out the press release, the minister changed his position. He went from saying this bill has support across the aviation industry to saying, in the press release, that the bill is supported by regional airport operators.

John Brumby has done a backflip. This bill has gone from, in the second-reading speech, being for the benefit of the aviation industry and having broad support across the industry, to the press release, where it is now for the benefit of country ratepayers and is supported by regional airport operators. So it is a complete, 180 degree backflip by the Minister for State and Regional Development in the other place. The content of the second-reading speech, which claims that the bill was for the aviation industry and had its support, demonstrates how out of touch the minister is with this issue and why he should leave aviation alone, because he does not understand what he is doing.

The issue I would like to turn to now is that of consultation, because the debacle with this bill could have been avoided if the government had consulted properly with the aviation industry. Instead we have a lazy minister and a lazy department that have picked up a bill from other jurisdictions, dumped it into this Parliament, fudged the issue of industry consultation and ended up in a mess.

In the second-reading speech the minister claims that:

> The need for this legislation was established by the Victorian Aviation Strategy Committee and has strong support across the industry.

He went on to say that:

> The Victorian Aviation Strategy Committee comprised aviation and industry representatives, and they have provided the government with a range of invaluable strategic advice about the future development of aviation in this state.

On that issue the Bracks government has lied to the people of Victoria, because the Victorian Aviation Strategy Committee is not representative of the industry and it was the only narrow consultation that took place on the bill.

As a result of the bill briefing the opposition received, we were given a copy of the list of people who were on that Victorian Aviation Strategy Committee. I would like to read the list into *Hansard* because it is very pertinent. That committee, according to the advice we received from the government, consisted of 19 people: Tony Robinson, Parliamentary Secretary for State and Regional Development; David Piper, the Australian Airports Association; Warren Mundy, Melbourne Airport; David Cornford, Ansett Australia; John Parish, Kangan Batman TAFE; David Miles, Ambidji Group; Jenny Houghton, Aerospace Foundation of Australia; Phil McConnell, Moorabbin Airport Corporation; Marianne Richards, Department of Infrastructure; Lyndsay Neilson, Department of Infrastructure; John Dalton, Department of State and Regional Development; Jill Murphy, Department of State and Regional Development; Ross Carrington, General Flying Services; Tim Penney, Department of State and Regional Development; Robert Spence, Municipal Association of Victoria; Trevor Jensen, Andrew Millar and Bill Jacobson, all of Ansett/Air New Zealand; and Patrick Goodman, Moorabbin Airport Corporation.

The significance of that is that of those 19 representatives named as having been consulted on this legislation, 6 are representatives of the government, either the parliamentary secretary, the Department of Infrastructure, the Department of State and Regional Development; 6 represent airport interests, either the Municipal Association of Victoria, the Airports Association or individual airport operators; 4 are representatives of airlines that are not affected by this legislation; and only one of them, Ross Carrington of General Flying Services, represents aircraft operators in this state. It is also very telling that at the meeting where this was discussed Ross Carrington was an apology: he was not even there.

Despite the government's claim that there was broad consultation on this issue, not one person representing aircraft operators in this state was represented in the consultation process. They were either bureaucrats or representatives of airports. For the minister to stand up and say that there has been broad consultation is just false and incorrect. He should correct the record because he has again got it wrong.

The government failed to engage any of the representative bodies in the aviation industry in the preparation of this legislation. The largest representative body in the country, the Aircraft Owners and Pilots Association (AOPA), was not consulted and is not a member of the government's committee. The Sports Aircraft Association of Australia (SAAA) is not on the government's committee and was not consulted in the preparation of this legislation. The Australian Ultralight Federation (AUF) is not on the government's

committee and again was not consulted in the preparation of this legislation. So the three largest representative organisations in the aviation industry in Australia were not consulted in the preparation of this legislation. Not surprisingly, we now have the absurd situation the government allowed to develop where the three largest representative organisations — AOPA, SAAA and AUF — are all united in their opposition to this legislation.

That is a situation that could have been avoided had the government consulted properly and got it right in the first place. It is an indictment of the government and the Minister for State and Regional Development to say that there has been widespread consultation and agreement on this legislation when the three largest representative bodies in the aviation industry were ignored.

Also disturbing has been the attempt by certain members in the other place to rewrite history. Reflecting on some of the speeches made in the other chamber, there was an attempt by the members for Morwell and Yuroke to say that David Piper, who was clearly on the Victorian Aviation Strategy Committee as a representative of the Australian Airports Association, was also a member of AOPA. That may be correct but he was not there as a representative of AOPA. It would be the same to say a member of the RACV is somehow a representative of the RACV. It is mischievous and incorrect for those two members of the government to say that and it will be interesting to see if members in this chamber do the same thing and attempt to say that David Piper was in some way a representative of AOPA.

I have discussed that issue with the president of AOPA, Marjorie Pagani, who made it very clear that David Piper does not speak and has never spoken for AOPA. His presence on that committee, despite the intention of the government to indicate otherwise, was not as a representative of AOPA. He was there to represent airport interests as a member of the Australian Airports Association.

We have the extraordinary situation of having the three largest representative bodies in this industry offside with this legislation. To compound that, this legislation has been so poorly handled and the consultation so badly managed that the president of AOPA, Marjorie Pagani, has said to me that she will not pay charges that any airport operators make for the use of air space around their airports.

I find it extraordinary that we are in a situation where we have a government claiming to have consulted and to have industry support for this legislation, yet the president of the largest representative body in the entire aviation industry in Australia is saying that she will not pay the charges that will be imposed under this legislation. That is how badly the government has got it wrong in its failure to consult. When it was told about this in the bill briefing and in the debate in the lower house, the minister, John Brumby, in his usual arrogant style, said, 'I am satisfied. I am not going to do anything. I am going to let it through'.

The other issues that have not been addressed in this legislation or during the consultation on and preparation of this legislation are the safety aspects. There are a number of people in the aviation industry in this country who are deeply concerned about the safety impacts that this legislation may have on operations at regional airports. That is because of fears that, as a consequence of seeking to avoid landing fees, people will not make appropriate radio transmissions during approaches to airports and circuits, on instrument approaches, et cetera.

Bill Mattes, the executive director of the Aviation Safety Foundation of Australia, has said that the bill as presently worded may have possible flow-on effects to pilot procedures and presents a detrimental safety risk. If the government had consulted, it would have known that and addressed it — but it did not.

Doug Stott, who is well regarded in the aviation industry for his work on aviation safety — —

Hon. B. W. Bishop — A good man!

Hon. G. K. RICH-PHILLIPS — And I believe he is from Mildura, Mr Bishop.

Hon. B. W. Bishop — Indeed.

Hon. G. K. RICH-PHILLIPS — Doug Stott has time and time again attempted to make representations to the Minister for State and Regional Development on this issue. The latest advice I have from Mr Stott is that the minister, in his usual arrogant style, is not returning phone calls or answering emails. He has wiped his hands of this. He is trying to put the debacle of the legislation behind him.

The issues raised by the Liberal Party have not been addressed by the government. In particular, the issue of training flight approaches, which will allow aerodrome operators to impose fees for operations in the vicinity of their airports where no facilities are actually used, has not been addressed. It is a safety issue, it is an issue of great concern to the industry, and it is an issue that the government, if it had consulted, would have known

about and could have addressed. Instead, we had a lazy government picking up the legislation from South Australia and dropping it into the Victorian Parliament, with the bureaucrats and the ministerial adviser not even understanding what it is about and as a consequence the minister proceeding to introduce this legislation to the detriment of the aviation industry.

It is very clear that these issues are of great concern to the aviation industry. I believe I have received more correspondence on this bill than I have on any other bill. It has raised industry concerns to such a height that the flow of email correspondence and letters coming into my electorate office — and I know those of my colleagues — is virtually unprecedented on such an issue.

There is already talk in the industry of challenges to this legislation through court proceedings. This is entirely the fault of the government. If the minister had consulted properly and had engaged the representative bodies in this industry, we would have had a situation where these issues could have been dealt with before the legislation came to the Parliament. As a consequence, the government is on the back foot on this. It does not understand what it is doing, it does not understand the impact, and the bill is going to be to the detriment of the industry, which could so easily have been avoided.

Unfortunately, the Liberal Party does not have the numbers in this place to make the necessary changes to correct this legislation. We urge the government to take up the concerns that have been raised. The opposition has raised three primary concerns, in particular the issue of training flight approaches and the impact they will have. In conclusion, it is clear that the government has failed to consult on this legislation. It again demonstrates that it does not understand the industry. It must make the changes that the opposition has called on it to make to ensure that this legislation is workable.

Hon. B. W. BISHOP (North Western) — I rise on behalf of the National Party to speak on the Aerodrome Landing Fees Bill 2003. At the start I put the position that members of the National Party will not oppose this bill, but we certainly have real concerns. Our concerns have been very well put by my colleague the Honourable Gordon Rich-Phillips, who no doubt has a very deep and wide understanding of the aviation industry. I congratulate him on his contribution.

It is very important when this second-reading debate is concluded that we invite the minister who has responsibility for the bill to answer and meet some of the challenges which have been put during this debate in the upper house. I heard some discussion that we may not finalise this bill immediately at the end of the second-reading debate and may hold it off to allow further negotiations to take place.

I urge the government very strongly to do that because all of us who make a contribution at least from this side of the house will be putting forward what we honestly believe are very practical and reasonable reasons to change the legislation and make it much more workable in the real world, not in the world of theory.

I guess this bill is like a lot of bills we debate in this house: you do not really know how it is going to go in the real world until it hits that particular area. This bill addresses issues of how aerodrome owners can apply fees and charges to users and how they can recover those fees. We are very fortunate that in Victoria, particularly in country Victoria, we have a large number of aerodromes that we can utilise for traffic, whatever it might be. It is great that that number of aerodromes and the safety of aviation in Victoria and Australia allow people to get around. There are heaps of aerodromes. I can think of aerodromes at Warracknabeal, Ouyen, Charlton, Wycheproof, Hopetoun, Robinvale, Swan Hill, Kerang, Sea Lake, Bendigo — the list goes on and on — and they are all quite good airports. It makes for the reputation of Victoria and Australia's aviation safety to be what it is today, and it is something that we should be absolutely proud of. In contributions made today we heard concerns about safety being addressed in this particular bill.

The larger aerodrome at Mildura has substantial commercial activities with Qantas Link and Rex commuter aircraft running out from there. It is a great service out of an area of the state that is booming. It has a lot of commercial business coming up from and down to Melbourne. Certainly those services are very good and well utilised. There are lots of other activities that take place in aerodromes like the one in Mildura. There are lots of light aircraft. Some of those are commercially based and some are recreationally based.

It is my understanding that rural and regional aerodromes are largely called uncontrolled airspaces. But aerodromes such as Tullamarine, Essendon, Moorabbin, Sale RAAF base, Avalon — I understand, part time — are controlled airspaces. I also understand that when you get into that area, land and utilise that airport you will be billed automatically.

I would like to go to the bill itself and have a look at the purpose set out in clause 1(b), which has caused most of the concern within the aviation industry. It refers to:

> a training flight approach by an aircraft …

If you go to the definition of 'training flight approach' in clause 3 of the bill, it is quite specific:

> "training flight approach", in relation to an aerodrome, means a planned descent to, or in the immediate vicinity of, a runway at the aerodrome, whether or not the aircraft touches the runway, during a flight undertaken for the training or testing of a person as a pilot or a member of a flight crew.

You might say it is quite specific on that particular area. But as has been said before in the chamber today and no doubt will be said a number of times during this debate, in many of those cases there is no cost to the aerodrome and the philosophy ought to be that if there is no cost to the aerodrome there should be no charge on that aircraft use.

Further on in the bill clause 6(1)(d) also refers to 'a training approach', and clause 6(1)(e) refers to:

> the carrying out of an activity, or the provision of a service, directly related to the arrival, departure, parking or training flight approach of an aircraft …

This is the part that has certainly stirred the industry up, as clearly enunciated by my colleague the Honourable Gordon Rich-Phillips.

I have also had a look at the other parts of the bill. A bit further on clause 6(2) states:

> If an aerodrome operator fixes a fee under this section, a notice setting out the fee must be published in the Government Gazette and in —
>
> (a) a daily newspaper circulating generally in the State; or
>
> (b) a periodical publication prescribed by the regulations.

It also states that it can be replaced by a different fee that is fixed in accordance with this proposed section. I suspect there is going to be quite a substantial cost in that, because if you change the fee, you will have to go through the process of re-publishing it in the *Victoria Government Gazette* and re-advertising. Taking all those costs into account, it will involve quite a substantial cost to the aviation industry itself.

I also had a bit of a look at clause 6(4) of the bill. It says:

> … an aerodrome operator —
>
> (a) is entitled to ensure that the amount of money collected in fees under this section is sufficient to cover the cost to the aerodrome operator of providing the service or carrying out the activity …

That says to me that it is cost recovery only — that is, if there is no cost, there will be no fee. In an attempt to gather more information on that and to try to get a bit more clarity I went back to the second-reading speech, as, no doubt, will other speakers here today, and the Honourable Gordon Rich-Phillips referred to it so well just before I rose to speak. The first paragraph says:

> The Bracks government is introducing this bill to assist aerodrome operators recover fees for aircraft using landing facilities, and to provide a legal framework for aerodromes that have deemed the collection of fees as too difficult to be feasible.

I then picked up from some of the briefings papers that in response to questions raised about the fee structure it was said that the policy intent of clause 6(4)(a) is to allow aerodrome operators to charge fees at a level sufficient to enable them to recover costs and to charge reduced fees or waive fees in specified circumstances. From a legal perspective the inclusion of these clauses clarifies that aerodromes will not be able to profiteer by setting fee levels that could be regarded as imposing a tax and, therefore, not be allowable. I suspect that if no costs are incurred, no fees will be applied in that area.

I notice when the pressure was on — I again refer to my colleague's contribution earlier — the Minister for State and Regional Development made some comments about this issue as well. He said words along these lines:

> There has been concern from some quarters that the definition of a training flight approach in the bill will lead to aerodrome operators charging for flight activities that have little or no impact on the airports' operations.

Further he goes on to say words to this effect:

> There is a cost to airport owners when navigation aids owned by the airport or approaches to the airport using airport-funded approach procedures are used by aircraft. These costs can be recovered through existing fees —

that is what the Minister for State and Regional Development said in the second-reading debate —

> and charges and the intent of the bill is not to introduce any new charges.

Therefore again I would suspect that in the normal course of training approaches and flights if there are no charges now, there will not be any charges in the future. You would have to come to that view. It goes on to say:

> Airport operators cannot and do not charge for the use of general airspace above their airports. Nothing in this legislation alters this fact.
>
> The bill introduces no new fees ...

He goes on to talk about the fact that:

> ... it merely legislates the existing rights of airports to charge for activities that relate to direct use of the land-based airport facilities, particularly those required for airport movements.

My colleague Gordon Rich-Phillips has certainly challenged that and the rest of the aviation industry who would be looking from that side of the line have challenged it as well — and challenged it quite hard. All I can say is that while not being closely connected to the industry, when I read the bill it looks to me to be a cost-recovery measure. So if fees have not been charged before, they would not be charged now. The Minister for State and Regional Development says in his response to the second-reading speech in the other house that there will be no new fees — training or otherwise; it will simply allow the airport to collect fees that have already been charged, and only on a cost-recovery basis.

I think it is fair enough for this house to ask the government to change this bill to make it understandable, to make it quite clear that there will not be any new fees adopted, and to confirm the point that will be raised during the debate this afternoon. I would have thought that was quite a reasonable request. I invite the minister in charge of the debate in this house to address those points. If we do stop and do not go through the final stages of the bill, those issues should be taken into account.

Clause 7 in the bill talks about the fact that:

> … if a fee fixed under section 6 is incurred in respect of an aircraft, the holder of the certificate of registration of the aircraft is liable for payment of the fee to the aerodrome operator.

I suppose that is fairly straightforward. But I wonder how the registered owner of the aircraft knows where the aircraft is going to go. I suspect they would not always know that. Would that be right, Mr Gordon Rich-Phillips?

Hon. G. K. Rich-Phillips — Absolutely right.

Hon. B. W. BISHOP — I thought it would be so, from my limited experience. So it leaves a question hanging in the air about the fact that the registered owner certainly would not know which air field the aircraft would be going to.

Again, there are more questions than answers. The beginning of clause 7(1) says:

> Subject to sub-section (2) …

If we look at clause 7(2) it gets even more confusing. It says:

> The holder of the certificate of registration may, by agreement in writing, assign to another person the liability or future liability for the payment of a fee fixed under section 6.

How do you do that? That is another reasonable question and one that is hanging in the air. Clause 7(3) states:

> Unless the agreement otherwise specifies, a person to whom liability is assigned under sub-section (2) is to notify each relevant aerodrome operator of the details of the agreement.

Again I ask: how will this work? It would be a pretty big job, I suggest, if you notified every relevant aerodrome — and I suspect there are a fair few around in Victoria that you would have to chase up. So the question is that if all of these conditions in clause 7 come to pass, who pays then? The question could then be asked: does anyone in fact pay at all?

The National Party really sees a bureaucratic nightmare in this provision of the bill, and it certainly needs tidying up. Again I invite the government to tidy it up so there is no doubt about where we stand.

Clause 8 of the bill talks about recovery of debt. This is fairly interesting. Perhaps the minister in charge of the bill in this house could explain this as well. The bill appears to grant rather extraordinary powers to aerodrome operators to recover the debt — different to other businesses, I suspect. It is fairly clear as you read through the bill that it is a cost-recovery process, but can the user challenge those costs? Is there an opportunity to do that? I cannot see such a provision anywhere in the bill. If it talks about cost recovery only, surely there would be a time where the user might say, 'Hang on a minute, I do not reckon it costs at all, or it certainly did not cost that much'. So the bill is deficient in the fact that it does not give the opportunity for a user to exercise the democratic rights that most people in our society have. We are a bit short on detail as we go through this bill.

I want to go back to the second-reading speech because I reckon the second reading was not too bad in a couple of areas, if you wanted to stir up the aviation industry — and it was wonderfully successful in doing that! The second paragraph states:

> The need for this legislation was established by the Victorian Aviation Strategy Committee and has strong support across the industry.

I would hate to see it if it had no support. All our offices and any of us involved particularly in country areas or with an interest in the aviation industry have been absolutely submerged with protests from the practical, sensible, working people in the aviation industry. So I

think it is an absolute furphy in relation to the second-reading speech.

I suppose it heads up what has been said this afternoon, that you would have to question the strong support. It certainly is not apparent from where I and others stand. You would have to also suspect the clumsy drafting of this bill, which has left many more questions than answers in relation to people who have shown an interest in this particular area. I would like to go down to the bottom of the first page in the second-reading speech by the Minister for State and Regional Development in the other place, where it says:

> The Victorian government has been active in addressing and resolving issues for aviation.

Well! It then says:

> The ongoing development of Melbourne's main airport precinct, Tullamarine; the Victorian government's submission to the commonwealth in relation to the sale of Point Cook; the future usage of Essendon and Moorabbin airports …

And it goes on. The future usage of Essendon Airport — what a ripper. I wonder who really wrote this second-reading speech that the Minister for State and Regional Development stood up and no doubt spouted out in the other house. Essendon is a huge issue, and the government has certainly tried to close it down. There is no doubt about that. Yet in the second-reading speech — and I will pick it up and read it again — it says:

> … future usage of Essendon …

What a double set of standards, because the Nationals believe that Essendon Airport is absolutely essential for the utilisation of aviation generally around Australia, particularly in Victoria. It is absolutely essential for us in relation to commuter flights, private flights, particularly in the air ambulance areas where it gets a lot of usage, and is absolutely crucial to country Victoria. So members of the government ought to be ashamed of themselves for those comments in there.

But I would like to do a blast from the past, if you like, and commend the efforts of one Bernie Finn, who fought long and hard with the rest of us for the retention of Essendon Airport. He did a great job while he was in the house in relation to the retention of Essendon Airport.

Hon. S. M. Nguyen interjected.

Hon. B. W. BISHOP — And he continued that, Mr Sang Nguyen, after he left the Parliament. In fact he visited Mildura a couple of times. I had the pleasure of meeting him there when he was still on the job of retaining Essendon Airport for the good of the aviation industry and for the good of country Victoria. Of course he is now at 3AK, and I have done a couple of runs on his program. But he did a good job in relation to that area, and I say, 'Well done, Bernie Finn, well done indeed'.

No doubt, as we said, a lot of people have shown interest in this particular bill. Certainly a large number of people have spoken to me, sent me something or in one way or another provided me or the Nationals with some information of their views on this particular issue.

The Honourable Gordon Rich-Phillips spoke of Doug Stott. I know Doug Stott well. He has had huge experience. I want to talk about Doug's contribution later on because I think it is worth while doing. He put a very good contribution to me. He is an ex-Qantas pilot and has a genuine interest in aviation — and a more than genuine interest — particularly in aviation safety. In fact it is a bit surprising, is it not, that the government did not choose to talk to people like Doug Stott? But the Minister for State and Regional Development and his office ignored him pointedly, even though he sent numerous requests in to have a chat to them about his views — practical, sensible views on this particular bill.

Marge Grabau, a great lady who lives in Swan Hill and has been involved in aviation all her life, has taken a great interest in this as well. She has a rather famous son — Pip Bormann — who does the acrobatic work with his aircraft, and he is fantastic at it. If you have ever been to a country show or airshow — and Mildura has had two or three highly successful air shows — Pip is there. He does acrobatics, with a voice-over as he goes through the acrobatics. In fact the pressure on him with the G-forces is such that his voice changes substantially as he goes through this very sophisticated acrobatic process. You would say Pip Bormann, the son of Marge Grabau, is a world-class entertainer.

And there have been lots of others. There were heaps of them. There was Alan Searle, Russell Kelly, Tony Taggart and Nigel Wettenhall. Nigel was part of the team that took the National Party on a run along the Murray River from the top of the river to the bottom, where we had a decent look at the river in relation to the Living Murray proposals. He is a very astute operator. David Piper had contact, as did the Victorian Farmers Federation and a number of others. I respect and value all their views. All of these people are real people: they are right at the cutting edge of aviation, and they are practical. It is a credit to the aviation industry that we have people who have the interests of the aviation industry at heart, people who are prepared to stand up and be counted. Collectively and

independently they said a lot of things to me, and I tried to get them together. I thought the best way to do it was to outline what my good friend Doug Stott sent to me in relation to his views on the industry. I think probably it gathers up most, if not all, of the views that people have come to the Nationals with on this particular issue.

Captain Doug Stott has been in the aviation industry for almost 40 years. He holds an airline transport pilot licence. He has accumulated over 20 000 hours and has experience on over 70 aircraft types — not a bad sort of pedigree. He has owned his own light aircraft for 27 years. During this time he has undertaken many honorary duties within the industry, including being the president of the two aero clubs, industry convenor for the National Airspace and Procedures Advisory Council for nine years, and as a senior pilot with a major regional airline for over 12 years he has undertaken many tasks and specialised in flight safety, risk management, investigation data analysis and quality assurance. He is presently conducting specialist consulting in aviation management, flight safety and quality systems.

You would have to say he would be a fellow that you would reckon the government would be pleased to talk to. But again, as the Honourable Gordon Rich-Phillips has said, and I have said, it pointedly ignored his contribution, which I think is a great pity. I will try and whip through what Doug Stott has put to me because I think it reflects the general views of the industry. He says:

> The act as proposed is designed to close a legal loophole in regard to the ability of aerodrome owners to recover landing charges made to users. The basic intent of this is perhaps appropriate. The act also proposes to allow aerodrome operators to charge for the use of airspace in the vicinity of aerodromes for the alleged provision of services which may or may not have incurred a cost to the aerodrome operator. This it is believed is beyond the authority of a state government. There has been no consideration of the safety consequences of the proposal. The proposed act supports the concept of charges without checks and balances or concerns for any unintended consequences. Further it does not support a balanced infrastructure that is fair to an airport's main beneficiary.

Doug says:

> The government sought advice from a government-formed committee designated the Victorian Aviation Strategy Committee (VASC).
>
> This committee agreed that there should be some method of recovery put in place to give aerodrome owners the ability to seek recovery of legitimate charges for the use of their facilities.
>
> The representation on the VASC is not broad based and did not represent the following sectors of the industry that use aerodromes including major regional airlines:
>
> > the Aircraft Owners and Pilots Association (AOPA)
> >
> > the Royal Federation of Aero Clubs of Australia (RFACA)
> >
> > the Airline Transport Association (ATA)
> >
> > the Regional Airlines (now Aviation) Association of Australia (RAAA).
>
> There did, however, appear to be an unusual bias on the committee in favour of those representing the interests of aerodrome operators who one might assume might be in favour of this proposal.
>
> This committee has not met for over a year and has not obviously reviewed the proposed legislation, which suggests that no specialist advice or input has been provided to government in the drafting of this legislation. The government has stated that the committee will review the working of the act; however, there is no further meetings proposed and some members of the committee have declined to return phone calls on their involvement — hardly representative. As a result the future of the VASC activities and its membership is unknown.

He then goes on to talk about safety:

> Within the aviation industry there is a strong safety culture and it is generally recognised that change (of which there is plenty) must be managed in all respects including the need to assess the risk of any proposed change by conducting a risk analysis. This often results in a safety case being undertaken so that any identified risks may be assessed and if possible mitigated against.
>
> To my knowledge no risk analysis or safety case has been carried out in respect to this proposed act. This alone should provoke a review.
>
> To one experienced in aviation safety matters I consider it is quite inappropriate for the government to turn its back on such a serious part of the process. This is especially so since there is a belief that there are risks resulting directly from this proposed act.

Captain Stott goes on to talk about the heads of power. The bill suggests that aerodrome operators may levy a charge for the use of facilities which they provide through the medium of a training flight approach. This in effect is a charge for the use of airspace. He suggests that this is not an area where the states have any jurisdiction, as airspace is very clearly a matter for the commonwealth to manage. He then comments on other acts:

> Both South Australia and Tasmania have similar legislation, and this is an attempt to provide similar coverage in Victoria. However, it has not been demonstrated as to how this legislation, and in particular charging for a training flight approach is used in either of the above named states.

He suggests that:

> … this part of the legislation in those states is not used in unmanaged airspace because it may well be unworkable. So why have it here?

He then talks about fostering aviation. I think this is quite important. I know my colleague the Honourable Gordon Rich-Phillips touched on this, but this is more of a philosophical view that Doug Stott puts forward. He says:

> General aviation is presently in its worst state for well over a decade and possibly all time, and many aircraft are not flying, being exported or have much lower than usual utilisation. Aviation in Australia is as necessary as the old ute, and I am sure if we did not have it there would be a lot of unhappy constituents. There are presently two main reasons for the downturn in aviation at the moment, one is the cost and charges, and the other is change and perceived overregulation.
>
> It is a responsibility of government to consider the flow-on effects and unintended consequences of any change they propose. If the change is likely to weaken or cause a (further) downturn in industry then the benefits must be very clear and strong to a wide section of the community.
>
> The collecting of landing charges by aerodrome owners is not as widespread in Victoria as the minister claims, and it is arguable that this act will not provide any additional income to any aerodromes in Victoria; however, it will certainly deter many aviators from flying or visiting some locations. Often the first time many know they have incurred a charge is when the account turns up in the mail. It may well also have a dramatic effect on pilots maintaining currency and participating correctly in the airways system which readers should be aware is under review by the commonwealth at this time.

This was referred to by the Honourable Gordon Rich-Phillips. Mr Stott then goes on to say:

> All of this combined will not foster aviation.
>
> A quick view of state involvement in aviation in the United States of America shows significant support for aviation infrastructure and state tourism towards those travelling in light aircraft. Special state charts are printed and provided for free, together with other material designed to attract the flying tourist. They do not contend with landing charges and in fact the opposite is the case with some locations providing much incentive to attract those four and six-seaters and the resulting dollars to the local economy.

Captain Stott also makes the comment:

> This act is silent on fostering aviation.

He then talks about discrimination:

> A visitor to a rural town that travels by car is not stopped at a boom gate on the outskirts of town to pay a levy for using the community facilities provided by the municipality. Travel by air and there is a desire by many aerodrome owners to charge for a landing and in some cases parking, in a misguided attempt to recover costs. Unfortunately for the average rural airport operator there is very little likelihood these charges will contribute significantly or at all and in many cases the costs of collection may well exceed the revenue.
>
> This is considered a very basic form of discrimination which is unacceptable to many light aircraft pilots who as a result choose to visit more inviting locations where they are made more welcome. This act supports such an opinion.

Captain Stott also talks, somewhat philosophically, about who benefits:

> The main beneficiary of a rural airport is the community which it serves. Attempt to close a rural airport and see what the reaction from the community might be? Without any doubt the whole community benefit, if even only for the possibility of a call from the air ambulance.
>
> Aerodrome owners that levy a charge for non-commercial operations have very little appreciation of the damage they are causing their very own community. A light aircraft with four persons on board can easily bring the best part of $1000 per night to a rural town in terms of taxi, accommodation, fuel and meals et cetera. Those that charge even very small amounts do not understand the culture of the average tourist pilot in a light aircraft and what they may be missing out on.
>
> Some major rural aerodromes choose to charge for commercial operations including a ticket tax and a landing charge based on airline schedule. This is considered quite appropriate as such high-use users are the ones that incur many direct costs to the aerodrome operator. Take away general aviation from such aerodromes and in most cases about 90-plus per cent of the infrastructure would still have to be provided.
>
> This act does not support the main beneficiary.

Captain Stott sums up by saying:

> Many issues raised in response to this proposed act have not yet been addressed by the government. Direct contact with the minister's office has been ignored.
>
> The whole concept of landing charges and the consequences thereof, many of them unintended, places a risk of reduced levels of safety at some airports and has a marked negative effect on business including tourism in the community served by such aerodromes.
>
> It is quite apparent that the government either does not understand matters relating to aviation or perhaps does not care. If it did, it would realise that this is very much a case of:
>
> If it ain't broke, why fix it?

He finishes by saying:

> I fully support well-researched and needed legislation. Unfortunately —

he concludes —

> this act is neither.

I thought that was a pretty fair summation of most of the documentation and calls that have come into my electorate office. One of the people I was talking to said

something that stuck in my mind, 'No impediment to pilots responsibly using their radios should ever be contemplated'. I thought it was a telling statement and a good point. All the pilots I know — and I fly with them quite a bit — have a huge respect for safety. They go out of their way to make sure safety is the first priority.

The concern expressed by a number of people who have contacted me is that a perception may be created by this bill that in fact if everything to do with flying, and particularly using radios, was to incur a charge, some pilots may consider not reporting in. I do not think they would, but you never know: in the business of today perception is stronger than fact. Certainly a strong view has been expressed in training approaches, that there should be no charges in relation to fostering the aviation industry in Victoria and Australia.

There is no doubt that the views expressed would support a risk analysis being done plus a safety case assessment as well. The National Party does not believe that has occurred. That is another question that the minister in charge of this bill in this house might care to answer. The National Party believes those processes should occur.

To sum up in conclusion, if the intent of the bill is read very broadly, I guess it may well be acceptable, but as the house has noted from the contributions of me and the Honourable Gordon Rich-Phillips, there are so many questions and so many concerns about the complications that could arise if this bill in its present form is enacted into law — and heaps of them have appeared during the debate. We suggest that although we are pleased to hear the Minister for State and Regional Development in the other place, Mr Brumby, say there will be a review after two years, it may be simpler to tidy up the bill now.

There is plenty of information, advice and expertise, and the National Party urges that prior to the bill being passed in this house, the government should have a jolly good chat to some of the very experienced people who have contacted all of our electorate offices and make the changes to this bill that are absolutely necessary not only for the safety and security of the aviation industry but for just good, practical commonsense.

Hon. KAYE DARVENIZA (Melbourne West) — I am very pleased to have an opportunity to make a contribution to the debate on and speak in support of the Aerodrome Landing Fees Bill. I certainly admire very much those people who work in the aviation industry. They place a great deal of emphasis on and stress the need for safety, training and maintenance. I have had a little bit to do with the aviation industry over many years as my eldest daughter, Paley, is a commercial pilot. She has been flying since she was 16 years old. She could fly before she could drive. So I have had a bit to do with the aviation industry. As I said, I certainly have some understanding of the commitment to safety, training and maintenance that the aviation industry has.

This bill is worthy of support from all members of this house. It is certainly a bill that demonstrates the commitment of the Bracks government, and it demonstrates how serious the government is about supporting the operations and maintenance of the Victorian aviation industry.

As everyone in this house knows, many challenges face the aviation industry at the moment. They are due to circumstances that have occurred internationally and to the downturn that the industry has experienced for some time. This bill has come into the house after extensive consultation with the aviation industry and stakeholders in the industry. The aviation strategy committee, which is made up of representatives from the aviation industry, recommended that there was a need for legislation. This bill has strong support right across the board from the aviation industry.

The bill will achieve a number of outcomes. It will assist the aerodrome operators in recovering fees from aircraft that are using landing facilities at their aerodromes. It will also provide an important legal framework for aerodromes that have decided that the collection of fees has just been too difficult and not feasible. So it sets out a framework in which fees can be collected.

Other states have already introduced and have legislation in place that enables the collection of fees. Both South Australia and Tasmania have similar legislation to the bill before the house today. It is worth noting that in those states the compliance rates have definitely improved and fees have not increased as a result of the introduction of legislation.

The bill enshrines the right of aerodrome operators to charge landing fees, gives legislative force to both the pursuit and recovery of fees incurred by airfield users, and provides avenues for recovering those funds without having to resort to costly common-law remedies. The government has developed this bill to assist and aid aerodrome operators so that they can recover such fees. There is difficulty with compliance, which has been one of the issues raised by the industry and through the aviation strategy committee with the government. It is a real problem. There is a high level

of avoidance of the fee structure by aircraft operators across the industry.

Many aerodrome operators do not bother to charge fees for the use of their aerodrome facilities, because they find it too difficult to collect them from aircraft operators. They have made that clear through consultations the government has had with stakeholders and through the aviation strategy committee. That committee recommended that the government move in the way it has in the bill to address the concerns of the industry. Non-compliance often leaves airports, particularly rural and regional airports, with significant revenue shortfalls. Those shortfalls are often made up by regional ratepayers with the assistance of local councils. The revenue collected from landing fees would normally be directed to the maintenance and upkeep of aerodrome facilities and infrastructure at those airfields and aerodromes.

The bill will not impose set fees, and it does not set fee levels. It will provide a legislative framework for the existing aerodrome operators to set fees. It will ensure that those fees are sufficient to cover the cost of providing a service. Within the framework set out in the bill it is up to the operators to set the fees they believe are appropriate and sufficient to cover costs.

No new fees are introduced as a result of the bill; it merely legislates for the existing right of airports to charge for activities that relate to the direct use of the land and the airport facilities, particularly those that are required for an aircraft to move around in and fly in and out of airports, such as navigation aids, radios, transmission equipment, advice to pilots, runway lights and runways, taxiways and apron areas as well as general airfield management activities that are designed to address the safety of aircraft movement.

The bill is not intended to impose costs for general airspace use. We expect that the aerodrome operators of Victoria will collect fees with the specific intent of maintaining the existing infrastructure and services provided in the aerodromes and airfields as well as looking to the future needs the airfield may have. This has been the case in other states where such legislation has been introduced.

The bill will not facilitate a rise in fees or put in place an overly prescriptive approach for aerodrome and airfield operators. It does not allow for profiteering by airports but aims to assist aerodrome operators to recover fees to cover some of the costs of maintaining aviation infrastructure. It is about airfield and aerodrome operators looking at what they believe is sufficient and appropriate to cover their costs, the services they provide and the activities they carry out.

Currently most aerodrome and airfield operators do not charge fees, because they find it too onerous and the process is too inconsistent to recover those costs. There is the ability for costs and fees to be applied but the airfield and aerodrome operators feel they are unable, and it is too onerous, to recover those costs. That has a direct impact on the incomes and revenues of airfields or aerodromes and impacts on the services and infrastructure they provide.

This is particularly important in rural and regional Victoria which relies heavily on airfields for the provision of goods and having the ability to move information in and out of regional areas. It is important that operators recover those costs and have a framework in which to apply those costs.

As has already been mentioned, aerodrome operators are required in the legislation to notify the public of their charges and fee structure through the *Government Gazette* and the local media. As has also been mentioned by the previous speaker, the registered owner of an aircraft will be liable for the fees unless they have transferred that liability to another party. As Mr Bishop pointed out, an aircraft operator can transfer that liability by writing to the other party and is required to notify the aerodrome operator of any changes.

The bill allows for the clear identification of the party that is responsible for paying the landing fee. It also gives legislative force to the pursuit and the recovery of those fees from the aerodrome users and to provide for the recovery of those fees without resorting to costly common-law remedies.

In conclusion, this is a good bill which deserves the support of all members of the chamber. It addresses concerns that have been raised by the aviation industry with the government. It demonstrates that the government is serious about supporting the operations and maintenance of this important Victorian aviation industry. I commend the bill to the house.

Hon. ANDREA COOTE (Monash) — I was most interested to listen to that dissertation from the Honourable Kaye Darveniza. I have to say I think she got it quite wrong. Looking at the purported purpose of this bill, it says it is:

> … to provide that an aerodrome operator may fix a fee for —
>
> (a) an arrival, departure or parking of an aircraft;
>
> (b) a training flight approach by an aircraft;

(c) carrying out any directly related activity or service.

As the Honourable Gordon Rich-Phillips rightly pointed out, there are a number of anomalies with this bill. He explained in detail about the training flight, navigational aids and all of those aspects of the bill, and about how this bill fails to address these problems, and in fact causes problems rather than aiding and abetting the industry as it is supposed to be doing.

As we know, similar legislation operates in Tasmania and South Australia. This is almost a direct lift from those states. It is a pity that the government has lifted this legislation instead of having a good look at how it relates to Victoria. It has been caught out on this. As the Honourable Gordon Rich-Phillips rightly pointed out, the government has not gone into the detail. It is just sloppy and lazy legislation. We have seen such a pattern of this, and here is another example of exactly the same thing.

Despite the legislation, aerodrome operators still need to take civil action to collect fees if aircraft certificate holders fail or refuse to pay. Once again, it is time consuming and costly. It is going to be very interesting to see what happens in reality.

The bill includes, for the first time, the power to levy fees for training flight approaches where the aircraft does not actually touch the runway or use any aerodrome facilities. This is generally supported by the operators, but is of concern to pilots and trainees.

In Ms Darveniza's contribution she spoke about consultation. I find this absolutely extraordinary. She said there was extensive consultation. There was not extensive consultation, and we have to go no further than to look at the views of some of the users of aerodromes to see exactly what they think and say about the lack of consultation. An email to members from Peter Wollerman says:

> I have great concern at the content and method by which this bill has appeared before the house. A copy of my concerns are attached for your consideration. This matter should not proceed without proper consultation with affected parties. That has not occurred. The bill should be withdrawn until that has occurred.

The Honourable Gordon Rich-Phillips certainly spoke about that, and I would agree. A further example of the lack of consultation is from Russell Kelly, who is from Mitta Mitta. He said:

> VASC is basically a lobby group representing the commercial interests of Victorian airports. There is no representation, nor has there been any consultation with major industry user and safety organisations such as Aircraft Owners and Pilots Association (AOPA), Australian Ultralight Federation (AUF) and the Sports Aviation Association of Australia (SAAA). All these national bodies have concerns regarding the legislation.

He goes on to say, interestingly:

> The government has stated that VASC will be asked to monitor airport charging once the act has been proclaimed and to report on any difficulties. With no proper representation from airport users the monitoring will be farcical.

Here is, as I said, another non-consultation — the government not going out there, talking to people around the state, as it said it would do. It has chosen and picked off a few people, taken note of them and copied the bill from South Australia. Here we have another example of very sloppy work.

My major issue here is in the area of tourism and how this bill affects it. We have seen a trend of people having limited time but adequate resources. We are finding people have healthy disposable incomes but are very time poor. They are using aviation, and using flights to various places, to a much greater level. If members look at the web site of a company called RL Aviation, which is based in Ceres, out of Geelong, they will see that Russell and Lindy Lee run an excellent business. In their web site they explain some of the places they take tours to. I spoke to Lindy Lee, and she explained that there are a number of people who hire their planes to fly, have a look at Victoria and to experience some of the wonderful tourist opportunities Victoria has. They take tours, for example, to the Twelve Apostles and to Mount Hotham — and I will come back to that in a moment. They have spectacular scenic flights and do a number of other things — for example, visiting the Phillip Island penguins, country horse races and golf and fishing trips right around Victoria.

We want to encourage people to travel around Victoria; we want all Victorians to have an opportunity to see this terrific state. As I said, we are now finding a number of people who are time poor but have the economic ability to charter a flight with a group and experience some of the excellent venues and activities on offer throughout regional Victoria.

Ms Darveniza spoke about the fact that most regional aerodromes in this state do not charge fees. She said that they do not charge fees but would like to be able to, but the reality is that these aerodromes do not charge fees because they want to encourage people to come. They want to encourage people to land there; they realise the economic benefits to the whole of their region and are very keen to encourage people to come. For example, you do not have to look much further than the Wangaratta Festival of Jazz. The

festival will be held from 30 October to 2 November. This year the festival will involve over 350 jazz and blues musicians from all over Australia. The economic benefit to Wangaratta is quite extensive. It provides local businesses, including wineries, gourmet food producers and hospitality trades with a great opportunity to promote their products and services. Just as an example, in 1997 it injected an estimated $13.5 million to the local economy. We are talking about attracting people of all sorts to the Wangaratta jazz festival. We are encouraging people from all over the state to fly to something spectacular like the jazz festival.

We have to look also at Brown Brothers, in the King Valley or at Milawa. We see from its web site how important the Wangaratta airfield is. It advertises for people who want to fly in to Brown Brothers that fuel is available at its aerodrome. Part of its publicity and marketing is to encourage people to fly in and use the Wangaratta airfield.

As I said, Mount Hotham is a slightly different case, because they are trying to encourage people to enjoy both the snow-skiing aspect and the alpine experience during the summer months. So having the opportunity for people to fly in is very important. It is a good example to show how country airports should be operating.

Winter time at Dinner Plain is slightly different again in that there is a resort fee of $11 a head and a minimum of $50. They are encouraging groups of people to fly there. Qantas flies into Dinner Plain but so do a number of other groups and organisations. They have multi-day stays and return prices, with packages to encourage people to fly in in groups to go skiing and see the alpine area and enjoy horseriding, fishing and hospitality. People are increasingly wanting to go there to experience those things. It is a very popular adjunct to visitors' time in the high contrary.

The Honourable Barry Bishop spoke about Mildura. If you look at what is on offer at Mildura it is often very difficult to go for a short stay because there are so many things to do. It is interesting to see innovative programs with people taking their own private planes or chartering planes. Mildura is another airport that does not charge fees.

A guide headed 'Mildura Murray outback planes trains' promotes tours and lists the Birchip aerodrome, Inland Air, the Mildura Airbus, the Swan Hill aerodrome and the Warracknabeal Municipal Aerodrome. People can fly to and from all those places and have a real outback experience. One of the things about Victoria is that people can have so many experiences within a small space. If international, intrastate and interstate visitors want to come to this state to have a desert experience they can do so near Mildura by flying to and from all those places. If they have to go through the paperwork exercise of paying all these fees, it will cost a heap of money on top of the cost of the flight. That will make it cumbersome, and people will think twice about it because of all the paperwork. The idea of having an outback experience and flying to Mildura, Birchip, Swan Hill, and all around — —

Hon. B. W. Bishop — Wonderful places, all of those.

Hon. ANDREA COOTE — They are indeed. I have flown in with an excellent pilot, the Honourable Gordon Rich-Phillips. I flew to Swan Hill, which is an excellent airport and it was very good to see how it operated.

Hon. B. W. Bishop — We will have to get one at Boundary Bend, won't we?

Hon. ANDREA COOTE — Indeed, we will have to get one at Boundary Bend. We have great opportunities with places to stay in this state. It is important that we encourage this sector of the tourist industry and make it as easy as we possibly can for people to come to these areas. Another area is Warrnambool.

Hon. J. A. Vogels — A great place.

Hon. ANDREA COOTE — As the Honourable John Vogels says, it is a great place. International visitors fly there to see the whales. As an example, Japanese visitors who fly into Victoria can arrive very early in the morning because we do not have any curfew on our airport at Tullamarine. They check into their hotels, do some quick shopping in Melbourne and then travel down to see the penguins or take a scenic flight to the Twelve Apostles and Warrnambool. They can stay overnight and see the excellent Flagstaff Hill sound and light show — —

Hon. B. W. Bishop — Is this Swan Hill?

Hon. ANDREA COOTE — No, it is at Warrnambool.

Hon. B. W. Bishop — They are copying Swan Hill.

Hon. ANDREA COOTE — They have an excellent sound and light show at Flagstaff Hill. They can also go whale watching, which is extremely popular. They are then able to fly back to Melbourne.

They then leave Melbourne and go to look at other aspects of Australia. So they have a very quick visit to Victoria. Because it is easy for them to fly to the airports, they are encouraged and that is very much part of their package when they come to Victoria.

Once again I go back to the lack of consultation on this bill, which is badly constructed. It was prepared without dealing with the people in the industry concerned. It completely ignored the tourist element. The government has not addressed the tourist element and the ability to fly around Victoria which is going to be a growth industry. The bill is a missed opportunity for the government. It is another case of sloppy, ill-thought-out legislation. I have to say, though, that we do not oppose the bill.

Hon. D. KOCH (Western) — I concur with many of the comments made on this side of the house in relation to the Aerodrome Landing Fees Bill. They have been extremely well put by my colleagues, certainly by the Honourables Gordon Rich-Phillips and Barry Bishop who have a strong understanding and knowledge of what takes place in regional Victoria in the smaller aerodromes and the opportunities they offer across the state.

The purpose of the bill is very straightforward. It states:

> The purpose of this Act is to provide that an aerodrome operator may fix a fee for —
>
> (a) an arrival, departure or parking of an aircraft;
>
> (b) a training flight approach by an aircraft —

and that one we certainly have some concerns about —

> (c) carrying out any directly related activity or service.

That is, associated with aerodromes. The necessity and importance of retaining air services across regional Victoria and the amount of use these airports have is easily demonstrated by the number of traffic movements at Essendon, for instance. It has air traffic movements in the order of 66 000 a year. If we break that down, we note that is nearly 200 movements a day in and out of Essendon, with 27 per cent of those movements going to regional Victoria.

Those movements include passenger and business services and emergency services, including the police air wing, the ambulance and the Royal Flying Doctor Service — and certainly not forgetting the State Emergency Service. These services are also used on a regular basis for tourism. The regional freight services that go in and out of Essendon, particularly to regional Victoria, play a very important part in industry.

We also note that there is a great need to retain the aerodromes in regional Victoria to allow agricultural services to be undertaken, particularly in the areas of aerial fertilisation and spraying. This has been brought about principally in the last few years due to the increased value of commodity prices allowing primary producers to undertake the services and accuracy of aerial services to assist in the control of pests and weeds and the distribution of fertiliser. The other important role of airports that we should not forget is in relation to pilot training. We are very aware that we have very active training schools. I cannot speak for all Victoria, but certainly in my province, which I share with the Honourable John Vogels, we have active training services taking place, especially at Warrnambool and Hamilton.

There is active use of aerodromes right across our province to assist in the running of agriculture, business, tourism and the other things I have mentioned. The main airports in Victoria which offer this opportunity to us are Essendon and Avalon, particularly for the direct intervention of air freight for export purposes. We should not forget the high movement rate at Moorabbin, which is second in Australia in light aircraft movements. That also offers a huge facility for Victorians, especially in regional Victoria.

It should be noted that there are in excess of 7000 aircraft owners and pilots in Victoria. These figures come from the Aircraft Owners and Pilots Association of Australia and clearly indicate the great need we have for many of these facilities. According to Civil Aviation Safety Authority figures some 2300 registered aircraft operate throughout Victoria. These aircraft are across all configurations. That gives us some idea of what we are contemplating here with this landing fees legislation.

As noted earlier, it is important to recognise that the majority of aerodromes in regional Victoria are operated and maintained by local government, especially since 1992 when the federal Labor government of that era stopped funding these venues. To my knowledge, we have less than 10 privately owned airports across the state. So when the fees were dropped off in 1992 under the federal Labor government it obviously left some concern about the maintenance and operation of many of these airports statewide.

We have to recognise that there are various standards at these airports — many in larger provincial cities far exceed those in some of our smaller rural communities, although even the ones in those communities offer

similar opportunities especially for the police air wing, the air ambulance, the moving of agricultural product and air freight.

It has been recognised in the house today that the legislation has been poorly drafted. It is a straight lift from South Australia and Tasmania and was believed to fill the breach in Victoria. When this legislation was debated in the lower house some amendments were sought by the opposition, and I will refer to those a little bit later. The legislation in its current form gives rise to much concern especially in the user community more so than among the suppliers of the services — that is, the aircraft owners and pilots.

It is obvious that the fees charged in many cases are not exorbitant, and on some occasions they are non-existent. They go a short way towards assisting with airport operations and maintenance, which in most cases are carried out with the funds derived from rate revenue across municipalities.

As has been indicated on the other side of the house, the bill has been introduced more to provide for the collection of fees than to make further increases to fee schedules across these facilities. The bill also moves the onus away from pilots and puts it on to the registered owners of the aircrafts. That gives the airport operators a better opportunity to recover costs under this new proposed statutory scheme.

The opposition, unlike the government, has consulted widely. I was amazed to hear from the lead speaker for the government, the Honourable Kaye Darveniza — —

An honourable member interjected.

Hon. D. KOCH — Yes, the only speaker — the lead and only speaker for the government. I was amazed to see her stand up on the other side of the house and say that the government had undertaken broad consultation before putting this bill before the house. Obviously there has been much support from the Australian Airports Association, and one would expect that. But, by the same token, that support did not come without some recognition of the users of these facilities. I draw the attention of the house to the correspondence received from Mr David Piper, the chair of the Victorian division of the Australian Airports Association. The letter states:

> The Victorian division members are unanimous in their support of the bill.

But he also raises further on that some minor amendments are needed. He said:

> In particular the definition of aircraft registrar is quite narrow, covering only CASA-registered aircraft. It should be enlarged to cover all aircraft, including ultralights, gliders and small rotary-winged aircraft.

I assume he speaks of gyrocopters and the like. Looking at the point of view given by the Aircraft Owners and Pilots Association, it is quite noticeable from the comments made by their president, Marjorie Pagani, that they had not been consulted at all. It was quite a surprise for them to find that the bill was before the house. In her letter she said that the Aircraft Owners and Pilots Association of Australia is strongly opposed to the bill:

> … in its current form, not only in respect to the substance of the bill but with respect of the allegation that industry has been consulted and is in favour of the legislation.

She goes on further to raise four issues of concern to the AOPA. The first concern is:

> The head of power, or right, which a state has to legislate over operations in unmanaged airspace.

She also refers to other areas and points out:

> Any advice to government was biased and not widely consultative —

especially amongst the users. Also:

> No risk analysis or safety case has been considered or carried out.

She also writes:

> The act may promote unsafe practices and by its very nature will be difficult or impossible to enforce.

So there are some concerns across the industry. It is not all straight going as we might be led to believe.

In the short amount of time I have left I think it is important that I talk about the three amendments that have been suggested and which should be considered. I believe the government is not beyond giving consideration to further amendments. This side of the house and especially the opposition would certainly like to see three areas addressed.

The first is an amendment suggested by the honourable member for South-West Coast in the other place, Dr Napthine:

> 1. That pilots and/or trainee pilots not be charged a landing fee for training flight approaches where the aircraft does not actually touch down on the runway or use any of the facilities of the airport.

The second amendment we would like considered is that raised by David Piper from the Victorian division

of the Australian Aircraft Association — that is, that the definition of aircraft be broadened to include ultralights, helicopters and power gliders, because at present the definition of 'aircraft' is not applicable to all types of small aircraft.

Another of Dr Napthine's suggested amendments comes from the operators of these facilities, which are principally, as we are all aware, municipalities. He suggests:

> 2. That the provision demanding on airports to advertise changes in landing fees in the *Government Gazette* and in a major metropolitan newspaper be scrapped in favour of allowing the airports to post fee changes on the Internet.

This is something that was brought to the opposition's attention by the Shire of Corangamite in south-west Victoria. The shire has grave concerns that if fee structures must be advertised in newspapers or placed in the *Government Gazette* every time the fees are changed, in many cases it will cost more to facilitate the schedules in that format than many municipalities will receive from any fees.

In the 40 seconds I have left I want to say that it is important that the government give consideration to further amendments to this proposed legislation, because as we have seen here today there is considerable concern about the format in which this bill has been presented to the house.

I also express my disappointment that we only have three members of the government in the house. This has been recognised as a very important bill, yet we have almost no-one on the other side listening to the debate.

Hon. R. H. BOWDEN (South Eastern) — I want to speak briefly on this bill, and I will begin by emphasising its importance not only to Australia but particularly to Victoria and to the servicing of rural and regional areas by general aviation.

The Civil Aviation Safety Authority Australia indicates that there are approximately 7000 listed owners and pilot licence-holders within Victoria. There are also approximately 2300 general aviation aircraft listed by CASA on the Victorian geographic area register. So the amount of economic activity that flows from general aviation is important, and the utilisation of those aircraft makes a considerable contribution not only in an economic sense but also in a social and services sense to the total integrated economy of the state. Anything that negatively affects general aviation or is of real concern to the owners and operators is naturally of concern to members of the Parliament of Victoria because of the longstanding important contribution that this industry and these particular participants bring to our state activities.

I am particularly concerned when I look at the bill that whilst the fundamentals are fine in concept, the actual preparation of the bill and its detail leaves a lot to be desired. It has been said by previous contributors that this appears to be a bill that is heavily influenced, if not indeed a straight draw, from the South Australian and Tasmanian legislation, and I do not think that is adequate when one considers the size and the importance of this activity to our state. I am the former holder of a general aviation pilot's licence. I would have been concerned about some of the cost aspects and potentially some of the safety aspects of this bill if they had been in place when I did my pilot training a long time ago.

There are three principal areas of difficulty in this bill, which need significant attention. The bill does not cover adequately the proper definition of 'aircraft' in the general aviation register in the state. It is confined as far as I can see to what we would understand as light aircraft, but there is a glaring lack of visibility in listing by ultralights and small rotary aircraft. That is a weakness of the bill, and it is something that should be corrected.

Also the establishment, maintenance and operation of airfields and aerodromes throughout Victoria is extremely important. Tourism is also extremely important, but in addition to the importance of tourism there are also the air ambulance activities. These air ambulance and tourism activities require that aerodromes and airfields are of a safe standard.

If we are to concentrate on cost recovery in and cost impost on the general aviation sector, I point out that many of the owners of facilities are councils, and I have a real concern that a short-sighted view may be taken by some councils that this is suddenly a revenue raiser. Thankfully, a number of councils would, as they do now, continue to take a very responsible view and look at their aerodromes and airfields as community infrastructure assets. But if this bill goes through in its present form, there will be some short-sighted and unthinking councils and councillors who may be tempted to look for either full cost recovery or some form of revenue. Whilst the bill allows that, I believe that would be a reprehensible result of the bill, and I am certainly concerned about it.

The advertising is also something that has not been very adequately done. The *Government Gazette*, in case honourable members on the government side do not

realise it, is not a hot item and priority reading for every member of the Victorian community. To say that something is in the *Government Gazette* does not mean that it comes to the public's notice. The second thing is that to require that changes of cost and cost information be published in major significant newspapers is expensive and in some cases may even exceed or approach the total revenue pattern of an individual airfield or aerodrome.

When I did my pilot training there were certain aspects that were common to the industry and to the training syllabus. Some of these are called go-rounds or touch-and-goes. A go-round is where one does a circuit of an airfield and comes down to a very low altitude in final preparation to land and then, without landing, immediately flies the aircraft out again, and the aircraft does not touch the ground. Depending on traffic patterns and the type of aircraft, it is not unusual to do three or four go-rounds or touch-and-goes in an hour. Therefore if this bill were to proceed, it would be quite possible to have a cost structure at an airport where a trainee pilot doing three or four go-rounds — an essential part of the training process where you abandon a landing at a very late stage — could incur an unreasonable amount of cost because the go-round is not a landing even though it may get very close to the ground.

Hon. D. Koch interjected.

Hon. R. H. BOWDEN — As has been indicated by my colleague, it may make training for requirements that are a necessary part of the syllabus extremely expensive and perhaps unaffordable, so I would be extremely concerned about that.

The other technique of touch-and-go, again depending on traffic and the type of aircraft involved in the training sphere, is where one brings the aeroplane down to final approach and actually lands the aircraft but does not stop. So upon the wheels touching the runway the pilot then prepares the aircraft for an immediate take-off and continues the roll and takes the aircraft back into the air.

Just as I described for the go-round situation, the trainee pilot is required regularly to do touch-and-goes because you do not want to waste time on the full-stop arrangement. So if this bill is passed in its present form, the measure has the potential to make, as Mr Koch indicated, an essential part of pilot training cost prohibitive, and I am concerned about that.

The other thing that also bothers me is if it becomes a culture within the airfield and aerodrome owners' priorities that cost recovery is the order of the day. I do not believe that is possible in many cases. I think it will end up being extremely unfair. Because of the nature of general aviation flying patterns and usage, it will inevitably mean that many airfields will lose a lot of visits. That again is not necessarily linked to the wellbeing of the community that has that facility. I believe the bill needs considerable rethinking and amendment.

I will not take a lot of time commenting on the community and industry consultation aspect, but suggest that it is clear the state government has not consulted widely. It has not availed itself of the amount of expertise and information available to it, and the Victorian Aviation Strategy Committee representatives were not exposed to the adequate amount of information they should have been exposed to in arriving at more suitable recommendations that led to the development of this bill.

I am concerned about aspects of the bill that honourable members from this side of the house have commented on. I have severe reservations about the bill. I do not believe the drafting of this bill has been adequate for a Parliament of this stature. I would be very anxious to see suitable amendments brought forward to address the concerns by honourable members.

Debate adjourned on motion of Hon. R. G. MITCHELL (Central Highlands).

Debated adjourned until next day.

SUPERANNUATION ACTS (FAMILY LAW) BILL

Second reading

Debate resumed from 18 September; motion of Mr LENDERS (Minister for Finance).

Hon. C. A. STRONG (Higinbotham) — In rising to speak on the Superannuation Acts (Family Law) Bill, I might indicate that the Liberal Party is supporting the bill. This bill puts in place for the superannuation schemes administered by the government the implications of the changes to the commonwealth Family Law Act 1975 that were introduced in December 2002. They deal with the question of the splitting of superannuation on divorce.

Those amendments to the commonwealth Family Law Act allowed for superannuation to be split on divorce or separation. Up until that point it was not possible to split superannuation on divorce or separation. The only

option for the Family Court was to make some estimation of the superannuation benefits and perhaps offset those in property settlements and other settlements that would have been made, but it was not possible for them to make a physical split of the superannuation. That is now possible. On divorce or separation the Family Law Court can issue an order that splits the superannuation benefit in any proportion that it can order. That is done by a splitting order which the court hands down. That, of course, applies to superannuation across the nation.

What the government has done in this bill is amend specific legislation with regard to the superannuation schemes that it administers. Specifically they are: the State Superannuation Act 1988, the State Employees Retirement Benefits Act 1979, the Emergency Services Superannuation Act 1986, the Superannuation (Portability) Act 1989, the Transport Superannuation Act 1988, the Parliamentary Salaries and Superannuation Act 1968 and the Government Superannuation Act 1999.

This is a fairly large bill as it has clauses that deal with each of those superannuation acts separately, but the principles that go through it are the same for all acts. Basically it allows for what could be called a clean break. It allows the trustees of those superannuation schemes to make an assessment, on a separation or divorce, of the benefit to both the spouse and the non-member spouse in accordance with the directions of the Family Law Court. In other words it allows for that assessment to take place straightaway and for those benefits to be paid out. That is different from the arrangements that are set out in the changes to the commonwealth's Family Law Act which allow for the benefits to be assessed but nevertheless paid out at the end of the superannuation life of the particular people involved.

The clean-break arrangement certainly is administratively much more sensible. It will help both parties to any settlement, particularly the non-member spouse who will be paid out and will get a particular amount calculated in a specific way, which I will deal with in a minute; they will know precisely how much will accrue to them. Likewise, the member spouse will have his or her superannuation appropriately reduced by that amount. So both parties will know where they stand virtually straightaway.

It makes it better for the parties involved, and of course administratively it will be a lot simpler because if that clean break did not take place, then in effect a separate account would have to be run. For instance, if a member of a superannuation scheme had the order to split that scheme, then the trustees would have to run, as it were, two accounts: one for the member, and one for the non-member spouse, which would vastly increase the administrative load for very little real benefit.

The clean break is very much the appropriate way to go. Certainly for some forms of defined benefits scheme it creates certain difficulties. Clearly when you have an accumulation scheme, if there is an order splitting it, say, for ease of illustration, fifty-fifty, one half of the superannuation benefit accrued is transferred to the non-member spouse and the member spouse's superannuation is correspondingly reduced. That is quite simple.

In some sorts of defined benefit schemes that is also relatively simple. But in other forms of defined benefit schemes — such as the one that is relevant to us here in Parliament, the parliamentary defined benefit scheme, which is a fairly lumpy scheme — sometimes this is relatively difficult because an assessment will have to be made of what is the likely benefit at the time of divorce or separation. This will be an actuarial assessment, and it will depend on many factors. There will be an element, I believe, of swings and roundabouts as to how it will work out. In the briefing notes we are advised that the actuaries say that over a 10-year period any swings and roundabouts should work their way out of the system and at least it will be cost neutral to the scheme. What it may mean to the members who are paid out in any settlement obviously will not be necessarily cost neutral.

Therefore, in essence, when a splitting order or a splitting agreement is made by the Family Court the process is that the member's benefit will be valued under normal actuarial processes and that splitting order will then say the proportions of the split — as I mentioned, 50-50, 25-75, or whatever the court orders — and that split will be communicated to the trustees in a splitting order or splitting agreement. On receiving this splitting order the fund trustees must immediately pay out the non-member spouse's share, and that can happen in a variety of ways. If, for instance, the non-member spouse is of an age that he or she can draw a superannuation benefit, that can be paid out in cash; failing that the benefit will be transferred to a superannuation fund nominated by the non-member spouse, and if the non-member spouse fails to nominate a fund the trustees can put it into a rollover fund. So the way the money is paid out will be related to the basic circumstances of the non-member spouse. As I said before, the member spouse will have their benefit reduced correspondingly to the amount that is paid out to the non-member spouse.

In essence all that is fairly simple. As I said, the only catch in it is that it will all be based on actuarial advice as to what the actual value is at the time of divorce or separation. The trustees will have the discretion with certain people to not pay that transfer out immediately; the trustees will have that discretion with non-member spouses and spouses who are receiving disability pensions. The reason for that is that there can be significant changes to the benefits of disability pension holders depending on whether their work status changes during the course of their life. If their work status changes and they go back to work, for instance, their pension entitlements will be different to their entitlements if they remain on disability pensions. So the trustees have the discretion not to pay out those amounts immediately so that nobody will be disadvantaged by any change in circumstances of people on disability pensions.

All this work with actuarial assessments of the value of schemes at divorce or separation and the like will involve the trustees in many cases in significant administrative expenses. As a consequence the bill allows the funds to charge fees for the various activities they undertake in carrying out the splitting arrangements. The bill calls for the minister to authorise those fees, but nevertheless fees can be charged for their work.

All the existing rules of the various superannuation schemes remain in place. For instance, if it is an arrangement where a benefit can be taken as a pension or where that pension can be commuted into a lump sum payment, all those rights and relationships remain exactly the same, albeit on the reduced benefits.

That is in essence what the bill does. As I said, it is a reasonably complicated bill, as most superannuation bills are, but in essence what it seeks to do is relatively simple: to allow for that clean break to take place so that on separation or divorce when an appropriate order is given by the Family Court or an agreement is made by the parties which is endorsed by the Family Court, that can be put in place straightaway. The benefit is actuarially assessed and then split in accordance with those orders from the Family Court.

There is also the ability in certain circumstances to flag a benefit so that if for any reason either of the parties to the divorce or settlement feel there may be some problem with carrying out that benefit split immediately, the superannuation account of the member spouse is flagged with that splitting order attached to it. That then allows the benefit to stay as is but it cannot be paid out to the member spouse at any stage while that flag is attached to it. That order can then be activated and the benefit split at a later date if people believe there is some problem with splitting it straightaway.

The bill will make the schemes administered by the government much simpler. It will be advantageous to the parties involved in any divorce settlement in that they will be able to get their payouts basically straightaway. It will be a good solution to implementing changes that were introduced in the commonwealth Family Law Act 2002. With those few comments, I urge members to support the bill.

Hon. P. R. HALL (Gippsland) — I am pleased that the National Party will be supporting the Superannuation Acts (Family Law) Bill. Superannuation bills always generate particular interest among members of Parliament, especially when they involve the parliamentary superannuation fund. We have had a close look at this legislation and believe it will be an improvement to the law relating to superannuation funds that are controlled through Victorian statute.

It has been said by the previous speaker that the main component of the bill deals with the distribution of the asset of superannuation in the event of a family breakdown involving either separation or divorce. Such matters are usually dealt with under the commonwealth Family Law Act 1975 and particularly these mechanisms contained in the bill under the commonwealth Family Law Act with changes that were brought about in December of last year.

The legislation is required because some superannuation funds, particularly those that involve Victoria's public sector superannuation schemes — the Emergency Services Superannuation Scheme, the Parliamentary Contributory Superannuation Fund and the State Superannuation Fund — are controlled by state legislation. They operate in the same way as other superannuation funds controlled by federal legislation, and we need complementary legislation to ensure that there is some consistency in the application of the distribution of assets across all superannuation funds.

I shall refer generally to such legislative changes. There is no doubt that separation and divorce can be very emotional and a traumatic experience not only for the direct couple involved but also for the families of those couples. We must ensure that at times when separation or divorce unfortunately occurs — we know they can at times generates bitterness or acrimony between the two separating parties — these issues, particularly involving the distribution of assets, need to be dealt with quickly.

As the Honourable Chris Strong said, the concept of the terminology 'clean break' was one that was used by the minister in the second-reading speech. So as to make a clean break of things when faced with a traumatic emotional event such as separation or divorce it is in the best interests of all parties that the things that need to be done be done quickly; then people can get on with their lives.

Superannuation today is a significant asset. When it comes to a property distribution between a separating couple, superannuation is one of the more valuable assets that need to be split between the couple. The second-reading speech points out the need for the bill, and states:

> Until the bill is passed, the State Superannuation Fund, the Emergency Services Superannuation Scheme and the Parliamentary Contributory Superannuation Fund will be unable to immediately split superannuation benefits when a marriage breakdown occurs. As such, no payment to the spouse can be made out of the fund until the member is eligible to receive their benefit, which could be up to 20 or 30 years later.

The National Party strongly agrees that it is unfair on the non-member spouse of such a scheme that if there is a breakdown, then that person should be entitled to the assets of their marriage at a much earlier stage and should not be required to wait 20 or 30 years, as was suggested in the second-reading speech.

By order or agreement the trustees can allocate the non-member spouse's entitlement to that person by way of direct payment or by transfer to another superannuation fund nominated by the non-member spouse. The bill is a complicated one and goes into some detail setting out certain conditions and requirements on the distribution of that asset to the non-member spouse. It mentions, for example, the type of funds that payments can be made into. It also outlines mechanisms for initiating payments and contains formulas for the splitting of that superannuation asset.

Then it contains terminology that goes to technical issues, such as 'flag-lifting agreements' and 'flagging orders'. I note Mr Strong attempted to explain to the house exactly what that terminology means, and I believe he did a great job. I will not attempt to replicate that explanation, but there are those necessary details to ensure that in the event of the mechanisms that the bill imposes coming about, then it is done in a proper and fair way. Therefore, the mechanics are outlined in the legislation.

The bill is necessary to reflect the changes that occurred at a commonwealth level. That is one of the principal reasons why the National Party is supporting the bill. There should be consistent application of all superannuation funds across the country, and the Victorian law needs to change to ensure that the funds controlled by state statute reflect the intent of the federal legislation. It is with those few words that I am pleased to indicate that the National Party supports the legislation.

Hon. W. A. LOVELL (North Eastern) — It is with pleasure I speak on the Superannuation Acts (Family Law) Bill. The purpose of the bill is to amend the State Superannuation Act 1988; the State Employees Retirement Benefits Act 1979; the Emergency Services Superannuation Act 1986; the Superannuation (Portability) Act 1989; the Transport Superannuation Act 1988; the Parliamentary Salaries and Superannuation Act 1968; and the Government Superannuation Act 1999.

From 28 December 2002 changes to the commonwealth Family Law Act 1975 provided that in the event of separation or divorce, superannuation can now be divided by agreement or court order. These changes make superannuation settlement agreements more certain and simpler for couples who separate or divorce in that their superannuation can now be divided either by agreement or order at the time of separation.

Previously the Family Court has had to take existing superannuation into account by adjusting other property when dividing a couple's assets. The bill will ensure that changes to the commonwealth Family Law Act 1975 are applied to superannuation schemes that continue to be governed by state legislation and ensure that in the event of separation or divorce couples will be able to make a clean break.

As the Liberal Party spokesperson for women's affairs it gives me great pleasure to support the bill, as the major beneficiaries of the bill will be women. When a couple makes a decision to have a family it is the woman who is more likely to take time out from her career or time out from the workplace to care for young children. Some of these women will move in and out of the work force as their families grow, and some may never return to full-time work.

Labour force figures from February 2003 show that the number of women in the age group of 20 to 24 years not in the labour work force is only 51 000; but in the next age bracket, from 25 to 34 years, the figure rises to 302 900. It stays at that level until about the age of 45 years, when it drops to around 200 000. It stays at about that figure until the age of 70 years when it rises to 370 000. These figures

confirm how many women drop out of the work force during their child-bearing and child-raising years.

The number of women in full-time work in the age group of 35 to 44 years is 364 800 and in part-time work is 405 100. Again these figures confirm that a greater percentage of women only work part time during their child-raising years. The decision not to work or to work part time severely restricts a woman's ability to accumulate her own superannuation.

This bill shows that as a society we value the role of motherhood and recognise the importance of women's unpaid work by providing for the sharing of superannuation between members of couples in the event of separation or divorce. It is an unfortunate reality that in our modern society divorce rates continue to rise. In 2001, 13 722 divorces were granted in the state of Victoria, and 7169 of these involved children. It is fair to say that many of the women from these 7169 divorces would have taken considerable time out of the work force or would have made a conscious decision not to work during the course of the marriage in order to care for young children.

When a marriage fails, there are stresses that impact upon the couple, their children and their extended family. It is important for everyone involved that the separation and distribution of assets be facilitated as smoothly as possible. This bill will assist in that process. It will allow for a clean break and the distribution of assets between members of a couple. It will also give women more financial security and independence. I commend the bill to the house.

Motion agreed to.

Read second time.

Third reading

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

> That the bill be now read a third time.

In doing so, I thank honourable members for their contribution to the second-reading debate.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

Sitting suspended 6.24 p.m. until 8.02 p.m.

CHILD EMPLOYMENT BILL

Committed.

Committee

Clause 1

Hon. PHILIP DAVIS (Gippsland) — Before I move the amendment in my name I want to make some remarks about the purposes of the bill. Clause 1(1), the purposes clause, reads:

> The purpose of this Act is to reform the law relating to the employment of children under the age of 15.

This is a fundamental matter which we will have to address throughout this committee stage. Perhaps it as well for the Minister for Aged Care, who is at the table, to deal with those matters at this time. For the record I indicate that in conversation with the minister before the committee stage commenced I indicated that we would be seeking clarification about matters that the bill covers that in a sense, to paraphrase, allegedly are deemed employment.

The purpose of the bill is, as it says, to deal with employment. What I want to ensure is that we are not transgressing, with this legislation, into areas that are well outside the purview of a bill that says it is dealing with employment as such.

It will be no secret to the committee that for some considerable time the opposition has been expressing significant concern about aspects of this legislation and the nature of the intent — the purpose — of the bill. If I can go to what I mean more specifically, it is quite clear that the legislation which will be repealed by this bill — that is, the Community Services Act 1970 provisions relating to child employment — will be replaced by what will be a new act that will significantly change the nature of what we have had in the past in the sense of regulating matters to do with employing children.

The opposition has clearly indicated at length that it supports any measures to improve the protection of children. As we understand the purpose of this bill, it is established to move, from the government's perspective, to a more contemporary basis of dealing with and regulating employment matters for children. But we think that in so doing the government may have gone a step or two too far in its enthusiasm. Perhaps that is one way of putting it.

I would like to draw out some issues in this committee stage. I am setting the scene for the discussion which I am sure will be facilitated by the minister who has had plenty of time to prepare himself for it. I want to ensure

that the intention of the government with the legislation and with the particular clauses contained in the bill actually satisfies the first test, which is the stated purpose of the bill — to deal with the employment of children. We would not want to be dealing inadvertently with matters not subject to an employment relationship, if they are to do with family arrangements, if they are to do with friends and associates, or if they are issues to do with children being involved in their ordinary life activities.

We can probably best tease this out shortly by looking at some particular examples. But it would seem to me that this notion that the bill picks up and deems activities that are associated in any way with a business enterprise as being the basis of an employment relationship is clearly in conflict with the stated purpose of the bill, because the bill sets out to discuss employment.

I might say that it is interesting to me that in a media release that the Minister for Industrial Relations issued he said this legislation is a dramatic improvement on the old system. As yet the opposition is unconvinced about that because of the peculiarities of the various provisions in the bill.

Further in the purposes we see references variously to systems for permits, an allowance for children under the age of 15 working in family businesses, general conditions of employment for children and making a mandatory code. I will come back to that later. Clearly we have concerns about the mandatory code, particularly the effect of its introduction, which is effectively legislating by ministerial fiat without any public or parliamentary scrutiny or any parliamentary disallowance provision. That means the mandatory code is in effect some sort of ministerial prerogative to legislate without reference to the Parliament.

There are references in the purposes clause to prohibitions on children doing certain kinds of work and to the Governor in Council declaring some kinds of employment prohibited. Of course anathema to the opposition is the provision dealing with the creation of an inspectorate, a class of inspectorate the likes of which we have never seen. The powers the child employment inspectors will have I cannot find anywhere much. Basically these people will have power to investigate under any head of statutory power in the state of Victoria, have the capacity to call at will on the police to assist them at work, to enter without warrant private property — in particular households — and seize documents without any authorisation at all. These are matters covered in the purposes clause.

In my initial remarks I guess I am inviting the minister to shortly deal with what I believe is the threshold issue of the notion of what is meant by employment under this bill, and I may have more to say as a result of his response.

Mr GAVIN JENNINGS (Minister for Aged Care) — I thank the committee for the opportunity to outline the basic tests that will underpin this legislation and hopefully to provide a greater degree of confidence and certainty not only for the Parliament but for the people of Victoria about how this piece of legislation will work. As a starting point I would like to suggest to the committee that fundamentally the definition of employment has not changed from the current statute, which goes back as far as 1970, being the Community Services Act. As has been indicated in the second-reading speech and the explanatory notes of the bill, those key features have remained intact.

However, I acknowledge that there is a degree of concern in the community and in the committee that we should make it fairly clear, if we can, how the test may be applied and in fact how in practice the definition of employment will be roped in in terms of the practices and procedures outlined in the bill.

As a starting point in terms of the definition of employment, the first test is whether the child is engaged in activities that assist a business, trade or occupation which is carried on for profit. So the first framework is an activity that actually assists within a business, trade or occupation carried on for profit. It is important to understand that the auxiliary test to this is that it is a business that is undertaken by another person, not the child. So it is another person who is engaging in this business activity, and clearly the notion of children employing themselves is not covered by the bill. They must be employed by other people in pursuit of these activities.

The third element is that it has to be understood that the arrangement between the child and the employer does not necessarily involve payment. It can include unpaid activity that is taking place within that business, trade or occupation. The fourth test is that the capacity for the operator of the business to try to alter the status of the arrangement with the child by calling the child an independent contractor will not have the effect of the employment falling outside the bill. In fact an independent contractor would be considered to fall within the scope of employment under this bill. The issue that members of the opposition and many members of the community have raised — that is, what falls within the scope of employment under the bill — is determined using a number of case studies, or

examples, that relate to activity. That may be a feature of this committee stage — in fact I anticipate that it will be.

The bill itself and the second-reading speech do not specify the limitations on the type of activity — activities that may be deemed to be work are wide ranging and vast in the extreme and very difficult to include. So it is not the activity itself but the arrangements that underpin the activity that are the key element.

The second-reading speech that I had the good fortune of reading to this chamber outlines the way in which the activity should be understood by applying a number of supplementary tests. The first test applied in determining whether the employment comes within the scope of this bill is to ask what is the intention. You test whether it is the understanding of the parties that an employee-employer relationship exists. After determining the intention of the parties, the second test is the nature of the activity, and a description of the activity becomes relevant in that context. It is based on whether the activity is integral to the way in which the business is carried out. The question is whether it is a productive activity within the scope of the business being undertaken. Other supplementary tests are the period of time and how often the activity takes place.

For a child to be deemed to be an employee within the scope of the bill it must be an activity undertaken by a child in a business, trade or occupation that is carried out for profit by another person regardless of whether payment is made for it in the circumstances of an independent contractor. The activity should be analysed in relation to the tests to determine whether it is integral to and a productive activity in the business being carried out, whether there is an intention that there is an employee-employer relationship, how often it takes place and over what period of time. The cumulative nature of those tests will determine whether it falls within the scope of work and, as a consequence, whether a permit would be required under the bill.

I understand there will be some ongoing concerns in the community about the way it will work in practice. As I have already indicated to the committee, I can imagine there will be some desire to explore a number of examples. In exploring the examples I will be looking forward to coming to an understanding of how those various tests may be met to ascertain whether an example would fall within the scope of the bill.

In practice guidelines will be established, and the child employment officers will be charged with the responsibility of distributing information and guidance about the way in which this bill should apply and be adhered to by members of the Victorian community. That work will be done in consultation with a wide range of stakeholders right across the Victorian community before it takes effect.

Hon. PHILIP DAVIS (Gippsland) — All that has occurred in the last few minutes has essentially confirmed the absolute concern which the opposition has about the detail of this bill and the various tests that have been used. I am grateful that the minister has attempted to clarify some issues, because it will be helpful to the opposition in pursuing some exquisite detail about these matters.

The minister made it explicitly clear that some activities may be deemed to be work irrespective of a payment relationship. As I recall, in his opening remarks he recited the comments made by the Minister for Industrial Relations in the other place on radio only a week ago, the transcript of which I have. The claim has been made in the committee and outside the Parliament by the minister whose bill this is, that the bill has not changed the arrangements under the 1970 statute. If the minister could bear with me, I would like him to advise whether there has ever been a prosecution in relation to a child being deemed to be employed even though they are not subject to any remuneration.

That is to say, has there ever been since 1970 one prosecution, as purported by the Minister for Aged Care and by the Minister for Industrial Relations, under the Community Services Act, the provisions of which this legislation is introduced to replace? Under those provisions has there ever been a prosecution in relation to 'deemed employment'?

Mr GAVIN JENNINGS (Minister for Aged Care) — I have not been advised of this matter, and I am seeking some direction from the advisers' box about whether we have this information available. It might be a matter on which I may have to report back to the committee at a later point in time because I am not aware of this information.

Hon. PHILIP DAVIS (Gippsland) — Perhaps I could assist the minister. As a result of my own research I can advise that there has been no prosecution under the Community Services Act 1970 provision since at least 1995. Prior to 1995 there was only one prosecution under the child employment law since 1987. My research capacities are not those of the government, I can assure the committee, but my research indicates quite clearly that there is no precedent to interpret the claim as it has been put in the committee this evening by the minister that the

Community Services Act definition of 'employment' is the same as the provisions which are in this bill. In fact I will argue to the contrary. Nobody has ever interpreted the provisions of the Community Services Act in the way that the government is now interpreting them — that is, to cover deemed employment.

What I would like the minister to respond to specifically is: on what basis is the government proceeding to rewrite the law — and I will get to the detail of the definition shortly — in relation to the definition in particular, because they are not analogous? They are worded quite differently; the bill is very different from the existing statute.

Mr GAVIN JENNINGS (Minister for Aged Care) — I am relying on the advice that had been obtained by the Minister for Industrial Relations during the preparation of this bill. As he has stated in the public domain, he relies on that advice and on that interpretation. It may be true that in terms of the second-reading speech and the tests I have outlined to the house today and the way in which the government believes the nature of activity may be understood — and we may have a working guide that stems from the second-reading speech about how it is the intention of the government for these tests to apply to determine whether activity falls within the scope of 'employment' under the bill — it is providing some additional guidance in light of community concern about this matter.

I do recall Mr Davis's contribution to this debate a fortnight or so ago when he indicated in his submission to Parliament that this is bad law because it will not be complied with. It may well be true that the statute that has been in existence since 1970 may be deficient when that test is applied. In that case my understanding of how the existing statute has been enforced or complied with has been extremely deficient, because most people over the period from 1970 to this day have not realised that their activities and their relationships with children engaged in productive activity have for the last 33 years always fallen within the scope of the legislation.

Hon. PHILIP DAVIS (Gippsland) — I guess we get down to the detail in the end; that is what we have to do. I want to pick up the comments the minister made in relation to his advice from the Minister for Industrial Relations in the other place. In an interview on the ABC radio *Country Hour* program of 16 September the Minister for Industrial Relations explicitly indicated that 'pleasure purposes' such as collecting eggs et cetera will not be covered by the definition of work.

That having been said on the *Country Hour* program, in a radio interview on 25 September the compere of the ABC afternoon broadcast, Lyn Haultain, said:

> So Philip Davis was concerned that this applied to paid and unpaid work, and you know that if a grandchild or a niece or nephew was out mustering cattle or feeding out the stock then they would be caught under this legislation and a permit would be required.

The Minister for Industrial Relations said:

> Well, I don't know where he has been for 30 years, but there has been no change. I mean the permit system always applied to kids who are doing paid and unpaid work.

That is consistent, I understand, with what the Minister for Aged Care has just recited. What I take issue with are the particularities of that claim. I would like the minister — and I will allow him to take a moment to consult his advisers — to point out to the committee how the definition of 'employment' which is contained at section 75 of the Community Services Act is the same as the definition in the bill.

It seems to me that the definition in the bill is substantially and materially different. The definition in the act refers to:

> (a) Assisting in any business trade or occupation carried on for profit …

and then it goes to another series of issues relating to entertainment, performance and so on. Essentially it is a very narrow definition. It says 'assisting' whereas in this bill the definition of employment reads:

> "employment" has the meaning given by section 4 …

That is section 4 of the new act. Proposed section 4 is headed 'What is employment?', and then the definition of employment runs for three pages. It is a fairly fantastic claim that is made by the minister to say it is the same definition, because in fact this is what it says:

> (1) For the purposes of this Act, a child is engaged in employment if the child takes part or assists in any business, trade or occupation carried on for profit —
>
> (a) whether or not the child receives payment or other reward for his or her participation or assistance; and
>
> (b) whether the child is engaged in a contract of service —

et cetera. Having said on the one hand that the purposes of the bill are to deal with employment, the actual definition picked up in the legislation widens the net so grossly as to catch any activity that might reasonably be undertaken by a child in relation to any commercial venture. That venture may be a corner store, a

lawnmowing round, a farming enterprise, the family hardware business or the family petrol station. It could be any one of a multitude of activities, but this bill does not reflect the definition which the Minister for Industrial Relations has been talking about on the public record. The minister responsible for the legislation in this chamber has come into the committee and said it is the same law.

With great respect to the people who are advising the Minister for Aged Care and the Minister for Industrial Relations, it is not the same. What the minister is saying is not in fact correct, and this bill significantly changes the law because of these provisions specifically, and I will read it again:

> … whether or not the child receives payment or other reward for his or her participation or assistance …

No self-respecting lawyer would say that is the same provision as exists in the Community Services Act, which says specifically 'assisting any business, trade or occupation carried on for profit'; that quite clearly implies a relationship of employment in a business undertaking. These are two quite different approaches to defining the issue of an employment relationship, and it is the material substance of what people in Victoria are concerned about with this bill.

Mr GAVIN JENNINGS (Minister for Aged Care) — I thank Mr Davis for allowing me the time during his contribution to receive some advice, because in fact the advice is useful to me, and it may be useful to the committee but perhaps not in the way Mr Davis may have hoped. The cumulative effect of definitions and the application of permits under the Community Services Act does give me some comfort in terms of providing the substantial answer to Mr Davis's question.

He is quite correct in indicating that the definitions as set out in the definitions clause of this bill and those in the substantive act are different. I draw to the attention of Mr Davis and other members of the committee section 76 of the Community Services Act 1970 headed 'Allowing an unauthorised child to engage in employment', which relates to the provision that has been included in the bill and the concept of whether the child is, as the term was used in 1970, 'in employment (whether for reward or not)'.

So clearly it is the view of the government that the way in which the Community Services Act 1970 was originally envisaged to apply in relation to the authorisation of children to work and the issuing of permits under section 76 provided the scope for this employment to be included, whether for reward or not, which the government understands to mean whether it is paid or unpaid activity.

Hon. PHILIP DAVIS (Gippsland) — It is evident that this will remain a significant issue of contention, and I daresay we can deal with it in other ways, so maybe we will get to that.

The minister has not been able to demonstrate that there has ever been an interpretation in the past of these deemed employment provisions in such a manner because there has clearly never been a prosecution, or at least a successful prosecution, so far as I have been able to research. The minister has no information on that. I have to say it is incredible that the government advisers are unable to inform the minister of that fact. I would have thought it was a basic part of research that ought to have been done in the development of the legislation.

Having said that, perhaps we can deal with this matter by way of some examples. Perhaps the minister might like to demonstrate the validity of his proposition, which I think is, in summary, that this bill when it becomes an act will not interfere with the opportunity for people to go about the ordinary activities that they presently go about. Can I ask specifically about a child who is employed to mow lawns or undertake gardening for friends, neighbours or acquaintances? We will not get tied up in members of the family, but if the child has a lawnmowing round where they are clearly earning money, so presumably there is a contract of employment, in that circumstance will they be caught? It could be car washing, for example.

Now, there were some allusions to self-employment, and I am not quite clear about the earlier comments the minister made. I am not clear if he was intending to allude to these particular examples, but if so could he confirm that, and then I would like to tease out some other issues.

Mr GAVIN JENNINGS (Minister for Aged Care) — The way in which I would deal with any example — and I do not want to frustrate the committee but wish to satisfy the request of the committee — is that I would be wanting to test out a number of the issues that I have placed before the committee this evening. On face value, from the example that Mr Davis has alluded to in relation to a lawnmowing activity — and a lawnmowing activity which generates a profit — and the child in question has engaged in that activity for another business, has actually engaged in an activity for profit, that does start to satisfy the roping in of this particular endeavour. But the particular activity of the child engaging in lawnmowing would depend upon a number of questions.

Was there an understanding between the child and the person who ran the lawnmowing business about whether they were employed or not? How often was the child engaged in this activity? Was it a one-off event or something that occurred on a regular basis, and for what length of time? And indeed we will make the assumption it was integral to the business. So clearly if there was remuneration involved for the child, it would pretty much be an indication that there was an employer-employee relationship, but it depends on the circumstances, the regularity and the duration.

Hon. PHILIP DAVIS (Gippsland) — That is clear.

Hon. J. M. McQUILTEN (Ballarat) — I have a question for the minister that relates to an area that I do not believe has been covered in this whole debate. I was missing during the second-reading stage of the bill. I was away sick.

My issue is about education. I represent country areas, and I have a reasonably strong view that grandparents and members of families will involve grandchildren in the operations of farms, not for the reason of profit but for the reason of education and history of what actually takes place on a farm because of family history et cetera. That to me is an area of importance in terms of the family and in passing on skills and other things. Education is an important part of this equation in terms of family farms and what goes on in regional Victoria. I personally am a little unsure whether the bill takes account of that aspect of the education process.

I have to say I have not warned the minister of this question, but it is a question that ought to be asked. I believe it is important in terms of the history and the way family farms work; it may not be about profit. Some moneys might change hands. That is not the intention of the grandparent. It is the grandchild who would be expecting it and saying, 'I've done a good job, Grandad, am I going to be paid?'. Grandad might say to grandma, 'How much can we afford to pay?'. They check with Mum and Dad, and all of a sudden they might say, 'We'll give you $20'. But it is a part of what happens in regional Victoria, and I suspect that education, which has not been mentioned by other parties, is a part of this equation.

Mr GAVIN JENNINGS (Minister for Aged Care) — I thank Mr McQuilten for his question. It is not the first time today that I have been asked a question by my side that I was not quite expecting.

Hon. Andrea Coote — You got a lot in last time.

Mr GAVIN JENNINGS — That is right. I do not know that I will take 4 minutes this time.

Mr McQuilten raised an interesting question. Clearly it is the intention that is underpinning the bill — all members of the Victorian community should understand that — and this statute is saying that what we expect of our children under normal circumstances up to the age of 15 is that they will be engaged in full-time education. That is underpinning the bill. It is saying that if you then go beyond your education, particularly if you are engaged in supporting business activity, it is appropriate that there be a form of regulation that restates — —

Hon. Philip Davis — I think Mr McQuilten was talking about a different form of education. Education in the broad sense.

Mr GAVIN JENNINGS — I am just building the picture. It is okay; I did understand his question.

What this is actually saying — in terms of providing for certainty — is that Victorian children will dedicate their lives to education, and then as an extra experience in life they can engage, for a whole variety of reasons, in work activities which may bring them within the scope of employment and the scope of the bill.

Mr McQuilten highlighted interesting examples that are in the spirit of the broader sense of education and involve an understanding of an agricultural or rural way of life or just making sure that children have the opportunity to participate in the breadth of social and economic activity in Victoria. Certainly it is not the intention of this piece of legislation to get in the way of that occurring.

The government appreciates that that is an important developmental aspect of community life. The interesting proposition the government is putting is that the very activities and circumstances that members of the Victorian community may be concerned about at this point in time about children being engaged in grandma and grandpa's farm, for instance, always had the potential from the Victorian government's perspective, from as far back as 1970, to warrant a permit being issued. In fact our understanding from 1970 has been that this has been a requirement, although it has not often been understood or taken up anywhere near to the proportion of the level of activity undertaken, but it is the government contention that that is the case.

In relation to the proposition of whether it is a bag of lollies or whether it is $20, that is not necessarily the issue that brings that level of activity on those farms into play within the scope of the bill. It is in fact what the understanding is. First of all, what is the

understanding? There is a whole range of tests, which I have indicated. It is not necessarily the $20 pocket money or the bag of lollies; it is in fact the intention and the scope of the activity in relation to the business, whether in fact that business is undertaken for profit by another person, and a whole range of other tests. It is clearly in terms of what is the active engagement between the children and relatives in the broadest context of Victorian community life, and very particularly in relation to the agricultural community. It is a very important thing that the government believes will not be inhibited by this law. It is certainly not the intention of the government that that be the case.

Hon. B. W. BISHOP (North Western) — I listened to Mr McQuilten's contribution with great interest. I think I am one of the few members in this house who can speak with some authority on working or doing things with grandchildren on a farm.

Hon. J. M. McQuilten — I haven't got any grandchildren.

Hon. B. W. BISHOP — I have, and I think I can speak with some authority on that. I have also listened intently to what the minister outlined in relation to the tests that came through their activity for profit. You could take that one out, I would suspect, in many of the family activities between a grandparent and a grandchild. In regard to unpaid activity, I cannot for the life of me work out who would judge that. I just cannot fathom that, so I am suggesting that some better explanation come up.

I am not being critical of Mr McQuilten's contribution at all, because he has raised an issue of education. I would extend that issue of education to family activity on a farm where there might be an activity going on where the grandchild, for example, is certainly not going to profit from that. It might be a family activity like, for example, Mr Davis shifting some sheep somewhere. If there is a reward, it is very hard to understand what it might be. It might be just 'giving them a hand', in the country ideology and terminology.

I am concerned that this bill leads us down a path where huge uncertainty will exist in relation to the education process Mr McQuilten spoke about, where that family sharing activity will not be able to occur. As a former farmer who has children running the farm and grandchildren on that farm, in my view it would cut off what I would see as a very basic process in family life and rural activities. Perhaps the minister could clear the fog that surrounds all these wonderful, almost philosophical views and tell the committee how it will be in the real world when someone comes out to the property and nails someone.

Mr GAVIN JENNINGS (Minister for Aged Care) — I can understand why Mr Bishop may go to the hard end and be concerned about the potential overregulatory nature of any statute, including this one, and overzealous enforcement of any statute. All of us have to be mindful and respectful of civil liberties in the state of Victoria. It is the clear expectation of the government that in the vast majority of circumstances a permit will be granted and granted quickly to enable this activity to take place in a way which in fact is consistent with how that activity takes place already. In fact it is almost the inbuilt assumption that unless there is very good reason for a permit not to be issued — —

Hon. Bill Forwood — Like what?

Mr GAVIN JENNINGS — I imagine I will be questioned at great length about that on another clause. The default position would be that a permit would be issued. Indeed I think there would be a recognition that there will be a reconciliation of the position put by Mr McQuilten and by Mr Bishop in practice by the fact that in the vast majority of circumstances a permit will be issued.

Hon. PHILIP DAVIS (Gippsland) — I ask Mr McQuilten to hold his fire. He can come in and support me after this one perhaps. I want to pick up the observations of Mr McQuilten and Mr Bishop, which I think are entirely appropriate, about the intergenerational transmission of knowledge. When the minister responded to Mr McQuilten's comments I thought he missed it, actually. Mr McQuilten need not nod his head; it is okay.

The issue is particularly important in rural Australia. There is the matter of lore about how we live and how we undertake our lives. In the city it is a different life, frankly. I know the difference now, because I have moved from a rural setting into a town, where instead of having to change the gas bottle halfway through cooking dinner you just turn the natural gas on. Instead of having to get out of the shower halfway through washing your hair and go across to the shed to the pressure pump to take the earwig out of the switch so you can get the water flowing again, you just turn on the tap. All of the things that are taken for granted in an urban environment are often great challenges in daily life when living in rural environments.

I am using this as an example because it is clearly the transmission and translation of knowledge and information from one generation to the next. How do

we manage our land? How do we manage our heritage? How do we deal with the seasonal variations? How do children ever learn about livestock? How do you ever learn about where to stand in the cattle yard or the sheep yard, or how to get sheep to move? Many have been the times I have had people that have never had an association with livestock tearing their hair out in frustration at the sheep, these so-called dumb creatures, that do not understand how to go through a gate when it is entirely due to the incompetence of the people concerned because they are not familiar and have not been educated in that long tradition that is necessary for translating knowledge from one generation to the next. You do not read it in a textbook; you cannot find it in a textbook. In fact I have never found any text on basic stockmanship that is of any value at all.

Hon. Bill Forwood — I'll lend you my kelpie.

Hon. PHILIP DAVIS — Yes, I have had a few of my own. My point is that this bill cuts through to the very basis on which relationships in rural Australia work. But it does not stop there, because it cuts right into the family. That is why we are concerned about the particularities of examples which the minister himself quite clearly raised about the various tests that will be applied.

Will the minister, given that we are talking about rural issues, advise the committee on the obvious ones? For example, what is the situation if a child, as deemed by the bill to be a child, is involved in an activity on a rural farming property, and that activity may be feeding out hay, which is a very obvious example; mustering stock; riding a horse or a motorcycle and mustering stock at the same time? Under the tests the minister has laid down obviously those activities relate to the business activity that is designed to generate a profit, or as my learned colleague with an accounting background sitting next to me said a moment ago, 'It might not be a profit in a farming situation, it might be a loss', but in accounting terms it is a negative profit. The truth is that that enterprise is about generating a profit and that activity relates to the enterprise.

Is the government saying that in all circumstances where a child takes a horse, goes down to the back paddock and moves a mob of sheep or cattle they are deemed to be employed?

Mr GAVIN JENNINGS (Minister for Aged Care) — The simple answer to that question is no. We are not saying that. In all the circumstances it depends upon the facts.

Hon. Philip Davis — I have just given you the facts.

Mr GAVIN JENNINGS — But you did not give me all the facts.

Hon. Philip Davis interjected.

Mr GAVIN JENNINGS — First of all, I lived on a farm for about 15 years, so the inbuilt assumption of Mr Davis's question that I do not get it does not stack up. When I actually left the farm I came and lived in the company of some octogenarians for about the next 15 years. In terms of understanding intergenerational connection, I think I get that as well.

In terms of understanding and having an appreciation of how well rounded an education may be regarding a rural background, an agricultural background or in terms of picking up the knowledge from older members of the community, that is something I have a personal understanding of and commitment to.

In relation to the specific example Mr Davis has given, not under every circumstance would that be roped into the bill because it depends on a number of factors: firstly, whether there is an intention that there is an employer-employee relationship, and secondly, how often does it occur and for how long is the activity engaged in. There are a variety of factors in the guidelines under the bill which will give some guidance to members of the community to know whether the bill applies.

Hon. PHILIP DAVIS (Gippsland) — Clearly that is not a satisfactory response. The situation is that the child, whether it be a child visiting friends in a remote location or indeed in the typical example I would think of, a child of a neighbour who visits the adjoining property or somebody down the road, and it just happens to be during school holidays or on a weekend. The question arises about the activity the children are engaged in, which is part of the norm of living in country Victoria. That relates to the ongoing activity in that rural environment, which is all considered to be part of the joy of being outside, of being in the sun and sometimes in the rain but catching, grooming and riding a horse and moving around the paddock. But on the way past the owner of the property or the manager says, 'Well, while you are down in the back paddock, bring that mob of cattle up to the yards, we need to drench them'.

To give an example, it is a casual encounter; the kids are there for a day of leisure and are asked to bring some cattle up because it is useful to have them do something with their time. Is the minister capable of telling me whether that is deemed to be employment?

Mr GAVIN JENNINGS (Minister for Aged Care) — Given the way that it has been described to me, as a one-off event, my instinct would be to say no, because there is no regularity to it and there is no intention, from the way it was described to me, for there to be an employer-employee relationship. On the way in which the case study has been described to me, and my interpretation of the reasonable tests I have outlined to the committee, the answer would be no.

Hon. J. M. McQUILTEN (Ballarat) — With regard to education and the issue I brought up earlier, it seems to me that this is one of the cornerstones of the Bracks government and its belief regarding the importance of the education of younger people. Clearly the bill is not designed to counter that belief. The reason I asked the earlier question was to flesh out the intention of the bill.

The government puts education first. We are talking about children aged under 15 years — an incredibly vulnerable time for most young people. They could be going to their grandparents, uncles or aunts, and it is an important part of one's education. I do not believe the bill would in some way prevent that education process taking place. Will the minister comment on that?

Mr GAVIN JENNINGS (Minister for Aged Care) — The central thesis from Mr McQuilten is similar to the one he may have expressed earlier in the committee stage. I absolutely agree with it, because it is a clear intention of the government to underpin education for Victorian children and to facilitate appropriate education in the broader sense and an appreciation of all aspects of community life.

Hon. PHILIP DAVIS (Gippsland) — In relation to the matter I previously raised I will again recite the particular example. The child is visiting. He takes the horse down the paddock and the owner or manager of the property says, 'When you are coming back, bring that mob of cattle back to the yards because they need drenching'. The kids have something useful to do with their time. They are elevated, they are recognised and they are learning stockmanship as they go. The minister's response, as I understood it, was, 'Well, in that circumstance the bill would not catch them in terms of a deemed employment relationship'. I think that was more or less the response.

Let us take it another step: it is not the weekend but school holidays. In fact, school holidays is a time when the kids are out on the ponies or the motorbikes every day, if they can be. The boys are usually on the motorbikes and the girls are on the ponies or horses, for some reason which I have not quite worked out, but that is their choice.

Typically you would imagine a scene where this event could be repeated every day for a fortnight. Indeed, it might be of surprise to the minister to learn that there are lots of farms around the state that organise their shearing or lamb marking or other major livestock-handling exercises to coincide with the time that the kids are home from school for the holidays, often with their friends, because the kids love it. That is what they want to do — they want to be involved.

They do not want to be paid; they want to learn how to work a dog. For example, a good bright, young kid on a farm can be working a sheepdog by the time they are 12 years old or younger. You can have children who are competent to handle a stock horse in their early teens and who are very competent to be working around sheep and cattle generally.

In these situations, where these events happen regularly, day after day, because the children choose to be involved — that is what they want to do — is the minister now presuming that there is a difference between doing it once and doing it repeatedly?

Mr GAVIN JENNINGS (Minister for Aged Care) — The simple answer is yes, and I will give the reason. Mr Davis said in his example that these circumstances were organised to coincide with school holidays. The cumulative test, that the business was being organised around the availability of labour in this circumstance — —

Hon. Philip Davis — That is the fundamental issue. You don't understand, do you? You've got no idea.

Mr GAVIN JENNINGS — I think, Mr Davis, you are probably disappointed that you actually said in your example that the business activity was organised around the availability of children.

Hon. Philip Davis — Because the children asked to be involved.

The CHAIR — Order! Through the Chair, Mr Davis.

Mr GAVIN JENNINGS — It is not our intention in any shape or form to deny the enjoyment of children by removing the opportunity for them to be engaged in such activity. The requirement of the bill, and the requirement of the statute, is for a permit under those circumstances, just as the government contests the current statute means that a permit should apply in those circumstances.

Hon. PHILIP DAVIS (Gippsland) — I point out to the minister that there are forms of reward other than

payment. The reward for children in the circumstances I have described, whether it is riding a horse, mustering stock, working with stock in yards or working in a woolshed — whatever it happens to be — is the participation. We call it work because that is just the word we use to describe an activity. To the children it is not work like at all; it is just straight-out fun.

The minister is essentially saying that in those circumstances, and in every circumstance where a child is regularly involved in an activity that is in any way productive to a business environment — and I am talking specifically about a rural business, a farm business — then that will be caught by this legislation and the children involved in a sense will be penalised by the action of this bill. Is that not correct?

The bill will require a permit and, under this bill that has not yet been amended, unless it relates to the family enterprise — the family of the children's mother and father — there will have to be a police check as well. How much fun is that — to go to the next door neighbour to have fun with the neighbour's kids and be told to sod off because they do not have a permit or a police check?

What is the justification for that? Who are the people advising the government? I accept that the Minister for Aged Care, who is at the table, could not be so silly as to not understand how stupid these provisions are. Quite clearly this is offensive. It is repugnant and will, regrettably, be intrusive in a way we have never seen before. The purposes of the bill set out quite explicitly that a new inspectorate with heavy-handed powers will be created. There will be an inspectorate of people that I predict will consist in the majority of former trade union officials, who will have police powers. They will have powers to direct the police to assist them in the discharge of their duties, to enter homes and seize documents without a warrant. All of these powers amount to a significant intrusion into the way people go about their lives in country Victoria.

The minister is, by confirming these examples, confirming that a child just wanting to adopt the lore, to learn the ways of living and to be part of a process of growing up, developing and aspiring to follow in their forebears' footsteps — whether they be involved in farming or, indeed, in other forms of small business which we have alluded to — will find it manifestly difficult. The relationship between a child and their grandfather, a child and their uncle, and a child and their cousin will be vastly different under this legislation, because the family members will be required to be cognisant of an inspectorate which will be using the heavy-handed powers dictated by this bill to enforce an application of law in relation to police permits to go with the permits for child employment.

I ask the minister to respond to this particular example: can the minister advise, if a child is collecting firewood, which I would presume in that circumstance would be for domestic use and therefore not for the business enterprise — —

Hon. J. H. Eren — Is that after he mustered the sheep or before?

Hon. PHILIP DAVIS — If you want to make a joke out of this, people in Victoria will know about that.

Hon. J. H. Eren — If you think mustering sheep for two weeks is fun, you're on another planet.

The CHAIR — Order! Mr Eren! I remind the house that interjections are disorderly.

Hon. PHILIP DAVIS — I am quite happy to have all those comments recorded in *Hansard*, because it displays the fundamental, base ignorance of Mr Eren and his colleagues on that side of the house.

In relation to this particular example of collecting wood, the minister is nodding his head to indicate that that sounds pretty much like a domestic activity, and I accept that. He does not need to give a verbal response; I accept that.

What if the wood by definition was a fence post? What if collecting the wood was in fact the product of actually having used the same equipment — the ute and the trailer to go down the paddock to collect the wood and the chainsaw to cut up the wood — and in this particular case the chainsaw had cut the lengths of the wood into fence posts?

Hon. J. M. McQuilten — You are not going to burn fence posts.

Hon. PHILIP DAVIS — No, you have collected the fence posts for fencing, John.

The CHAIR — Order! I ask Mr Davis to address the Chair.

Hon. PHILIP DAVIS — By definition I would have thought that if the wood in the form of fence posts adds to the productive activity of the farm, then in that circumstance that would be an employment-related activity. Would that be correct? I will wait for the response.

Mr GAVIN JENNINGS (Minister for Aged Care) — It is a pity I did not have a chance to answer

the question about whether I am anti-fun. I am for fun. In fact there was a question embedded in your lengthy question to me.

The nature of what the government is trying to do is to provide for the engagement of young people in the broadest aspects of Victorian life, but to provide a regulatory regime that applies when they perform some activities that relate to business or trade for profit for another person.

Hon. Philip Davis — So are the fence posts work or play?

Mr GAVIN JENNINGS — Going back to the fence posts and the difference between your example in relation to cutting kindling or cutting fence posts, it is the same activity. What will determine whether either activity is roped into the bill is whether the net result of that activity relates to a business.

Hon. E. G. Stoney — This is pathetic.

Mr GAVIN JENNINGS — It is obvious, Mr Stoney, that that is the way this piece of legislation is framed. It is not specific on the activity itself. If the activity relates to a productive outcome in the business, then the other tests that I have already indicated to the committee apply: whether there is an intention of there being an employer-employee relationship, the duration and the regularity of the activity — and indeed payment is not a test that has to be satisfied to determine whether it comes under the bill or not. From the example Mr Davis has outlined to me there is insufficient information to determine whether it is roped in or it is out.

Hon. J. M. McQUILTEN (Ballarat) — I have to make some comment on the remarks by the Honourable Philip Davis about fence posts. The firewood example was quite reasonable, but in practice what happens on farms — and Mr Davis knows this — is that if you are going out to cut fence posts you are going out to cut fence posts. That is clearly, in my interpretation of the bill, a commercial activity for the farm. If you are going out to cut firewood, that is what you are sent to do: go and get the firewood. To cut fence posts or other sorts of logging material requires quite some skills, and I cannot imagine any 12-year-old being able to cut fence posts out of firewood. That is patently a nonsense. I think the honourable member knows that. He was just stretching the argument a bit too far.

Hon. PHILIP DAVIS (Gippsland) — I am delighted to talk about wood all night. Let us just tease this out another step. So we are out collecting wood. Let us say it is firewood. Let us say that half the trailer load goes to the house and the other half goes to the shearers quarters. Will the minister explain whether the activity is for profit and caught by the bill or is a recreational or personal activity?

Mr GAVIN JENNINGS (Minister for Aged Care) — Mr Davis will be expecting me to say there is not enough information, for the various reasons I have outlined before, to determine whether it is in or out.

Hon. PHILIP DAVIS (Gippsland) — Would the minister now care to explain, given his incapacity to interpret any of the examples I have given to him, but one — —

Mr Gavin Jennings — No, a couple.

Hon. PHILIP DAVIS — Will the minister explain how it is that ordinary people who are not legislators and not lawyers, who are going about their daily lives and just trying to get on with living in a community, will interpret the provisions of this bill and their responsibilities? I do not want a lecture about child employment officers. What I want to know is how they will understand what their obligations are, because all the minister has done so far is demonstrate how complex, unwieldy and frankly how unworkable these provisions are.

Mr GAVIN JENNINGS (Minister for Aged Care) — The government obviously has the confidence that that will not be the case, but it accepts a degree of guidance and education has to underpin the effectiveness of this piece of legislation. I am not going to give Mr Davis or members of the committee a lecture about the child employment officers. However, one of their important responsibilities will be that they will be charged with establishing guidelines in consultation with a broad range of members of the Victorian community and stakeholders in this endeavour, and a very important part of the implementation of this act, if this measure is enacted, will be based on having the appropriate guidelines and on the spreading of the education that will underscore the way the bill will work in practice.

Hon. PHILIP DAVIS (Gippsland) — I just wanted to make some further general remarks, because now is the time that I understand where the — —

The CHAIR — Order! On clause 1?

Hon. PHILIP DAVIS — On clause 1, the purposes clause. We are talking about the purpose of the bill, and I will be consistent with that. The purposes of the bill, as I articulated in my opening comments, are fairly

wide, but they supposedly deal with the employment of children. What I note is that these provisions create deemed employment arrangements, they create a permit system, they create police checks, they create an inspectorate with right-of-entry provisions which are draconian to say the least; they create a mandatory code which is established by ministerial fiat without parliamentary scrutiny; and they create an ill-defined concept of light work.

What I really wanted to go to was this: the bill has 42 pages affecting what amounted to $5^{1}/_{4}$ pages in the Community Services Act, which makes it inordinately complex. The minister's response has highlighted just how complicated this is. It really troubles me that the information that has been provided to the committee so far demonstrates and highlights the incapacity of the ordinary man to deal with this legislation in the way that he should be able to — that is, to understand what his obligations at law are.

The main point I would like to raise is about the notion of protecting children. As I understand it, the intent of this legislation has been and remains to protect children from abuse or exploitation by adults, effectively.

Hon. J. M. McQuilten — Do you agree with that, Phil?

Hon. PHILIP DAVIS — If you listen to my remarks, consistently I have said yes. In fact the opposition is very strong on the issue of child protection. Our view is that that is an important tenet. I have no difficulty conceptually with the contemporising of the legislative framework. However, the bill is not, as has been claimed by some members of the government, about protecting children from harm by way of accident — that is, occupational health and safety-related issues.

I want to deal with it specifically because I think it is important in relation to the purpose of the bill. If we are here today talking about a bill to protect children from abuse and exploitation by adults, which the minister has agreed with, we should not be talking about the various regulatory and legislative requirements to deal with safety in the workplace. That is not what this legislation is about. It does not even pretend to deal with that. Yet, there are members of the government who have made the claim that that is what this bill proposes to do.

I have looked at the purposes very carefully, and I have considered how I might come to agree and understand perhaps by inference that it is an aspect of this bill that I have not been able to see. If there is an issue in relation to these matters, I challenge the minister to point that out. But as I see it this is a framework in effect to protect children from adults.

There is one thing in particular about farm safety that needs to go on the record. It is clear from some of the remarks made by Mr Smith during the debate that he has the view this bill is about workplace safety. The remarks he made were so impassioned that they were provocative. They provoked the farming community widely, in particular the Victorian Farmers Federation. I understand the VFF forwarded to all members of Parliament a copy of its response to Mr Smith. Whether members agree or disagree — —

Hon. B. W. Bishop interjected.

Hon. PHILIP DAVIS — Yes, Mr Bishop. Whether members agree or disagree, the fact is that it was a very substantial response. Effectively, it rebutted the slurs made by Mr Smith's comments, which I will not recite again. It states in part:

> Australian Bureau of Statistics figures for work-related injuries by industry for 2000 indicate there are fewer injured workers in the agriculture sector per 1000 workers than in either the manufacturing, mining, construction or the transport and storage industries.

I thought that was an interesting rebuttal. It states further:

> Injuries for males working in agriculture are 13 per cent lower than in manufacturing. The injury rate for women working in agriculture is one-third lower than women working in manufacturing and 44 per cent lower than for women working in the health and community services sector.
>
> Women are less likely to be injured farming than they are working in education, retail, health and community services, accommodation and restaurant sectors.
>
> ...
>
> Unfortunately, child employment permits will have no impact on farm safety and there is no benefit for either farm children or the extended farm family in requiring permits.
>
> ...
>
> Your claim about more injuries occurring to workers on farms is also undermined by evidence. Many of the injuries occurring on farms are for farm owners and managers. There is mounting evidence that older farmers are a particularly at-risk sector.
>
> In 2001 only one of the 13 farm fatalities was of an employee. Farmers, family and friends made up the majority of farm fatalities. Nine fatalities (69 per cent) involved persons over 55 years.
>
> ...
>
> ... The VFF is concerned about all farm injuries but it is important to recognise subjectively and factually which persons are being injured on farms.

Under the heading 'Child injuries on farms' it says:

> In the context of the Child Employment Bill, it is clear from the debate that you have gone to extreme lengths to confuse the debate on the bill with the wider issue of workplace safety. Workplace safety standards are, appropriately, set and administered by occupational health and safety legislation and should not be determined by child employment legislation.
>
> The government' proposed child employment permits will have no impact on child safety on farms.
>
> For farm families and farm children, farms are a workplace, a home and a recreational environment. Many injuries on farms are unrelated to farm work activity.

The VFF then alludes to the government's own issues paper *Children at Work?*, which relates to this bill. I am sure the minister has read it in detail, as have we all, no doubt. The conclusion of that report is that the vast majority of accidents are related to recreational activities that are unrelated to work. It states:

> National Occupational Health and Safety Commission research into work-related deaths on farms for the period 1989 to 1992 indicates that 92 per cent children killed on farms are not engaged in work activities. Only 8 per cent of children who died on farms were engaged in farm work.
>
> ...
>
> Only 3 per cent of deaths on farms for children under 10 years related to work.
>
> ...
>
> Horse and motorcycle-related accidents are the largest factors of injuries for older children.

The letter continues:

> In the light of the above evidence I request on behalf of the Victorian farmers that you issue a retraction or clarification for the public record of your claims that farms are the most dangerous work environment and destructive workplace in the country.

It is signed by Paul Weller, president of the Victorian Farmers Federation. The point of reading that into the record is to deal explicitly with the confusion about the intent of this bill. The opposition has no problem with the government's intent with this legislation — it is about protecting children from adults. It is about protecting children from abuse and exploitation — —

Hon. J. M. McQuilten interjected.

Hon. PHILIP DAVIS — 'Some adults' — you are quite right, Mr McQuilten. Having made that clear, it is not about occupational health and safety. What I am really getting at is that the bureaucratic nature of the provisions of this bill goes far beyond what we have come to accept as being reasonable. We have been through the detail with some of the examples on which the minister had difficulty giving some clarification, so I am not going to waste further time on that.

Clearly, the committee, the Parliament and, therefore, the public will have to remain uninformed about how these rules are to be interpreted, notwithstanding that we have given some particular examples. It is quite clear that the intent is to widen the scope of this area of law to include activities which in the past have been regarded as being well outside the interpretation of employment.

The question arises: on whose interpretation will these judgments be made? The answer clearly must be given in the clause which deals with the purpose of the bill: child employment officers will be the people who make the interpretations. I would have a great deal more faith in the minister's ability to make these interpretations than I would in child employment officers. As the minister has had such a great degree of difficulty in interpreting the examples that have been provided, it leaves me flummoxed as to how this new inspectorate is going to assist members of the community to interpret these provisions.

I am really concerned that we have a series of issues which point to an interference in the private recreational activities of children across the board, but particularly in country locations. We have interference in what I would describe as voluntary activities; interference with the ethos of helping one's neighbour; interference in being involved with the development of a sense of community by participating — the exchange that occurs between friends and neighbours in a local community. We have interference in the time that children have during weekends and school holidays to do things they regard as recreation; and we have significant interference with family.

I know the government has made an announcement that it has done a bit of a somersault on a particular aspect of the bill in relation to a suggestion that it will subsequently introduce amendments to reduce by a very small margin the number of people who are subject to police checks. We are yet to deal with that amendment, but the point I make is that it does not go far enough because the extended family will be badly affected by the limitation of that provision. More importantly, when we get to it, permits will still be required. It is quite clear by the fact that the government is bringing amendments into this chamber that it has acknowledged that it has made a mess of this bill and has not managed it effectively.

Hon. J. M. McQuilten — We listened.

Hon. PHILIP DAVIS — Good one. I will get to the point and move amendment 1. I move:

1. Clause 1, page 2, lines 8 to 10, omit all words and expressions on these lines.

Amendment 1 deals with the mandatory code, and I will consider it a test for amendments 6 and 13. However we resolve this amendment will be a test for those amendments.

In moving this amendment I refer to comments I previously made about the mandatory code. The mandatory code has been established for the purpose of allowing the minister, by gazettal, without any public or parliamentary scrutiny, to create a code for the purpose of regulating the supervision of children in the entertainment industry. For members of the committee who have the bill in front of them, I refer particularly to the provisions in clause 29 and further down, especially clauses 31 and 32, which relate to how the mandatory code is made.

Clause 31 states that the mandatory code is made as follows:

(1) The Minister makes the mandatory code by order published in the Government Gazette.

(2) The code takes effect on the day the order is published or the later day specified in the order.

Clause 32 states that the effect of the mandatory code is that:

A person who employs a child in entertainment must not contravene the mandatory code.

Penalty: 100 penalty units in the case of a body corporate;

60 penalty units in any other case.

That involves fines of $10 000 and $6000 respectively. They are fairly substantial fines.

Our purpose in pursuing this amendment is to deal explicitly with a provision which the government seeks to introduce in this bill, which gives a very substantial power to a minister — effectively without any scrutiny — to create a subordinate regulatory arrangement to which there are significant penalties attached. We do not believe it is appropriate for such power to be vested in a minister without a proper check, balance or scrutiny. The reason for moving the amendment is explicitly to try and ensure that this mandatory code provision is deleted from the bill.

Mr GAVIN JENNINGS (Minister for Aged Care) — In a fairly wide-ranging contribution that led to Mr Davis moving the amendment before the committee, he raised a number of matters that I would like to refer to in passing.

We did find some common ground in his contribution in terms of understanding that one of the fundamental features of this piece of legislation is to provide for child protection mechanisms so that children would have some degree of confidence and certainty, and their families would have some degree of confidence with a child entering into an employment arrangement with another person. Indeed, child protection is a major feature and one of the major reasons why this statute will be, if adopted by the Parliament, far more explicit and expansive than the legislation it replaces in terms of the Community Services Act 1970. They are the substantive differences between the bill and the act.

In terms of the very significant issue that Mr Davis raised in relation to occupational health and safety, clearly the government understands that the Occupational Health and Safety Act is the appropriate mechanism and contains the means to ensure the ongoing occupational health and safety of children who engage in activities in workplaces, which obviously includes farms. So in terms of the mind-set that underpins the letter from the Victorian Farmers Federation that Mr Davis has read into *Hansard*, the government is of a similar mind — that that is the appropriate demarcation between this piece of legislation and other statutes, and that would be its intention.

I would like to say that there is some common ground. I would in most instances try to find common ground between the government and members of the opposition and the National Party, and indeed members of the Victorian community who would be concerned about the implications of new law, to find ways through which we can find common ground, and I think we have found some in relation to those issues.

As to the specific amendment that Mr Davis has moved, the committee should be made aware that the mandatory code which it is the intention of the government to include — and particularly to apply to the entertainment industry — is in the government's view an appropriate mechanism to ensure that in a particular area where there is a high incidence of children engaged, there needs to be a rigorous regime adopted throughout that industry that would provide sufficient certainty and confidence that in a wide range of circumstances children would be protected within that sector.

Indeed, the mandatory code has been adopted in a variety of other circumstances, going as far back as the Code of Forest Practice, which I think would be one of the earlier versions of a code that has been applied within the mandate of statutes as far back as 1989, from

memory. The Code of Forest Practices would be a template and clearly has been a method which has been used in a number of different circumstances, and recently with the outworkers legislation adopted by the Parliament earlier this year. Indeed it is the government's view that this is an appropriate mechanism.

I trust that the contention of Mr Davis that this is an arbitrary whim of a minister will be balanced by the undertakings that indeed there is an obligation on the minister to engage with stakeholders and the industry comprehensively as part of the development of the code and its adoption. I believe it would be incumbent on any minister who introduced such a code to be bound by ministerial responsibility within the scope of the act to be accountable to the Parliament as to the way in which that code would be constructed and implemented. So on that basis the government does not accept the amendment.

Hon. PHILIP DAVIS (Gippsland) — As the government has indicated it will not be accepting the amendment, I foreshadow that I will, in the event of a division and my amendment failing, be circulating a further amendment to deal with the mandatory code.

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

Ayes, 21

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

Noes, 17

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

Pairs

Somyurek, Mr	Strong, Mr
Thomson, Ms	Baxter, Mr

Amendment negatived.

Hon. PHILIP DAVIS (Gippsland) — I move:

2. Clause 1, page 2, lines 17 to 20, omit all words and expressions on these lines.

Amendment 2 will test amendment 4 and amendments 14 to 24. This amendment, of course, deals with child employment officers. The amendment proposes to delete from the bill this new inspectorate of child employment officers for the various reasons which I have previously recited. In summary, the clause creates a class of inspectorate which has extraordinary powers. It relates to a whole raft of matters to do with compliance. What I am concerned about in particular are the powers that are vested in the child employment officers who have clearly the capacity under these provisions to intrude in such a way on a business, or indeed a family home in the circumstances where the family home were part of the business. The typical example which committee members will relate to, I daresay, will be the circumstance of a farmhouse which is the centre of the farm business activity where — as I am sure Mr McQuilten will recognise — the office is probably the kitchen table with a filing cabinet stuck in the corner alongside the fridge. That is the farm office forming the nerve centre if you like of the business enterprise. In the circumstances set out in the provisions relating to child — —

Hon. J. M. McQuilten interjected.

Hon. PHILIP DAVIS — Yes, there will today be a computer because I think 48 per cent of all farmers now regularly use the Internet. The child employment officers will have search and entry powers into these premises. This will be a significant intrusion on the individual liberties of those citizens where these inspectors will be potentially entering, notwithstanding they will have no permission to do so.

They will be empowered to seek and direct police to assist them in this mission. They will be able to simply march into those dwellings and seize and remove documents which relate to matters they are investigating.

I was particularly fascinated by provisions in respect of child employment inspectors coercing their victims in relation to not just the provisions of this legislation but any other statute in Victoria. They can presume and assume to have powers which will allow them to enforce a wide range of laws when the purported intention of this new inspectorate is to deal explicitly with child employment matters. It seems to the opposition that it is inappropriate to have such an inspectorate in the first place, but if you are to have such an inspectorate you must ensure that the powers

that are vested in the inspectors are limited to what is reasonable. We think it is entirely unreasonable for the inspectors who are called child employment officers to simply be able to waltz into a residence or any other business premises at will and seize documents and enforce their view regardless of the rights of the family who may be attached to that building. What I would really like the minister to do before — —

Hon. J. M. McQuilten — At what price child safety?

Hon. PHILIP DAVIS — I was just getting to the point of asking the minister to tease out the substantial justification, which does not appear anywhere in the debate preceding this point of consideration, why it is necessary for new officers to have such draconian powers, powers which do not seem to exist anywhere else in relation to enforcement provisions. In most statutes there are requirements to deal with warrants; there are other provisions which relate to granting permission and a process of stepping through an application to get a warrant to enter to seize documents if it is understood the documents may be relevant to the commission of a crime.

In this particular case, without any ifs, buts or maybes, apologies, requests or courtesy, child employment officers will have the power to simply walk in at will at any time, with police to enforce that power of entry, and seize any documents they like. That could well be in a private home. The opposition thinks that needs a better explanation than that which has been provided so far.

Mr GAVIN JENNINGS (Minister for Aged Care) — I thank Mr Davis for the opportunity to outline to the committee the underlying rationale why enforcement officers are an important aspect of this bill and that the government does have confidence that the way they will undertake their responsibilities will allay some of the fears that have been generated in the Victorian community about the implication and administration of this bill. It is the government's clear understanding that the child employment officers have been the feature of the existing statute and the existing enforcement of laws that relate to child employment as far back as 1970 and, indeed, that they are the mechanism by which the existing law is enforced and understood.

Child employment officers currently have the responsibility of issuing permits, providing advice on the implication of the current law to employers, parents and schools, and ensuring compliance with the legislation. Their primary role is to facilitate a greater degree of understanding and compliance with the Victorian law. That was the clear undertaking: to ensure that quality information is disseminated broadly throughout the Victorian community. That is a key expectation that the opposition and the National Party may have, that if this does become law there will be a very clear expectation — a very realistic and reasonable one — that the guidelines and information about this law should be broadly transmitted to the Victorian community. It would be the primary role of the child employment officers to undertake that particular role.

In addition, they will have the responsibility and obligation to issue permits. That was an issue raised by Mr Bishop in his contribution in the early part of the committee stage: there is a clear understanding and expectation by the government that it will be the normal practice and procedure that permits will be issued, and it will be the responsibility of the child employment officers to issue those permits. We suggest that it would be in the interests of all members of the committee to support the notion that this work is undertaken properly.

In terms of their having some degree of confidence about the way in which these officers will go about their responsibilities, as is the expectation of other employees employed by the secretary to the department under the Public Sector Management and Employment Act 1998, there would be an expectation of the highest degree of conduct and behaviour consistent with the directions that have been provided and mandated under that act.

In relation to that a number of requirements are embedded within this piece of legislation which would require the officers to be competent, to be of good repute in terms of character, honesty and integrity, and to ensure that they agree in writing to perform their duties according to the criteria established by the secretary. As I have indicated to the committee, there is an existing range of powers and responsibilities of child employment officers within the current statute.

The CHAIR — Order! I have to interrupt the minister. Pursuant to sessional order 10 I have to report that the committee has made progress on the bill.

Progress reported.

Business interrupted pursuant to sessional orders.

ADJOURNMENT

The PRESIDENT — Order! Pursuant to sessional order 10 the question is that the house do now adjourn.

McCallum Disability Services: house donation

Hon. ANDREA COOTE (Monash) — I wish to raise a matter for the Minister for Community Services in another place. I was recently in Ballarat where I met a woman called Louise Weir, who is the full-time carer of her 35-year-old disabled daughter. Like many parents of disabled children she is ageing and she has a deep concern for the welfare of her daughter and about what she will do when she can no longer care for her.

In order to ensure that her daughter has a house to live in, Mrs Weir has proposed that she donate her house to McCallum Disability Services as the community residential unit on the condition that her daughter is able to remain in the house for her entire life. This offer would depend upon the Department of Human Services supporting her daughter for the duration of her life.

This is a very vexed issue which is concerning to a number of ageing parents with disabled children; indeed it is a very poignant and very difficult situation for all those involved. I have received a letter from someone who is involved with McCallum Disability Services. Mrs Erna Fidler wrote about Mrs Weir in a letter to me of 22 September:

> Louise Weir, who you met the same day as myself is still battling to get appropriate care for her disabled daughter. Her offer to give her home absolutely free to Human Services is totally useless as there is no money to staff the house. Her type of offer is not so unusual but always 'knocked back' because of lack of funding for staffing.

This offer of Mrs Weir, and the security it would offer for not only her but her disabled daughter, is particularly generous and something the department should look at. I have received a letter of acknowledgment from the Minister for Community Services in the other place saying that she will explore it further. A week later I received another copy of the same letter from the minister. I assume that shows some enthusiasm on behalf of the minister.

However, as Mrs Fidler says, and as I understand it from Mrs Weir, nothing has happened. What is the minister doing to explore this further and when will a decision be made that will give certainty and peace of mind to Mrs Weir and her daughter?

Automotive smash repairers: code of conduct

Mr PULLEN (Higinbotham) — My adjournment matter this evening is for the Minister for Consumer Affairs. On Thursday, 21 August, during the winter parliamentary recess, I, together with parliamentary colleagues from the other place the members for Narre Warren North and Box Hill, attended a Victorian Automobile Chamber of Commerce body repair division dinner at Tudor Court Receptions in Caulfield.

Persons of note at the dinner included John Howes, the body repair division chairman; Gunther Jurkschat, VACC general manager; Jim Reddy, VACC manager of the body repair division, and Greg Colli of the Australian Automotive Repairs Association who gave a very interesting speech on a court case mounted by smash repairers against NRMA Insurance in New South Wales, now known as The Insurance Australia Group. There were also around 200 smash repairers at the dinner.

Among the issues discussed were anti-steering legislation, licensing, the commercial debts legislation and the issue I have raised a number of time since my election — that is, the proposed code of conduct between smash repairers and insurers.

Some years ago when the Honourable Steve Crabb was consumer affairs minister in the Cain Labor government, important legislation was introduced in the towing industry. While some towing companies opposed the change at the time, it is now recognised as a world leading practice and the industry has now developed its own voluntary code of conduct. That legislation stopped tow truck drivers racing all over the place to accidents and introduced a sensible allocation system.

I consider the attitude of the insurance companies not to come to the table and discuss the code of conduct to be a disgrace. The code of conduct is a very fair document that protects particularly consumers from shoddy work practices and supports small businesses, the backbone of employment in the state, while the insurance companies have nothing to fear. This issue was recently aired on the *7.30 Report*, and one of the smash repairers from my electorate appeared in that report.

Basically consumers should have the freedom to have their damaged vehicles assessed and repaired by a repairer they know and trust. I understand that at the Ministerial Council on Consumer Affairs meeting of 1 August 2003 it was agreed that a national solution would be pursued in relation to this matter. Could the minister update me on what is the current position?

Water: Dartmoor treatment facility

Hon. D. KOCH (Western) — I raise a serious matter for the Minister for Water in the other place which relates to the need for the minister to address the continual delays in having reticulated water connected to the town of Dartmoor in south-west Victoria.

Dartmoor, a thriving community of 300 residents, is the largest town in Victoria without a reticulated water supply. The town supports a vibrant farming community and an extensive and growing forestry industry with a large softwood timber mill operated by Green Triangle Forest Products which employs more than 100 people.

Green Triangle Forest Products provides bore water to 49 homes previously owned by the mill. Seven years ago the mill decided to withdraw from providing this essential service following a small spillage at its treatment plant. But under a continually extended agreement, now with Portland Coast Water, the mill continues to supply water to these homes while the rest of the residents either use their own domestic tank water or bore water.

The Dartmoor Progress Association, in conjunction with Green Forest Products and Portland Coast Water, has worked hard over the past seven years to reach an acceptable proposal for the Dartmoor water issue.

Regrettably, after stating its commitment to reticulate water to the town, Portland Coast Water has decided to defer the proposal, it would appear, indefinitely due to the escalating cost now expected to be in excess of $1.5 million.

In 2000 the government committed $97 000 to the project, but this will only be paid when the scheme is finished. Clearly this grant will not even provide preliminary funding for the first stage of the scheme.

Will the minister confirm that additional funds will be made available as a matter of urgency to Portland Coast Water in order that it can complete its early commitment to supply and connect reticulated water to all properties in the township of Dartmoor?

Aged care: *Intergenerational Report*

Mr SCHEFFER (Monash) — I raise a matter for the attention of the Minister for Aged Care. The minister will recall the release more than 12 months ago of the federal government's *Intergenerational Report* that aimed to provide a basis for considering the commonwealth's fiscal outlook over the long term, and to identify emerging issues associated with an ageing population.

The report assessed the long-term sustainability of current commonwealth government policies over the next 40 years. It said that the proportion of the population that is over 85 years of age is expected to triple, while the proportion in the prime working age range of 15 to 64 is expected to fall.

The report argued that the impact of an ageing population will result in dramatically increased health costs, in particular for pharmaceuticals, and that additional revenue will need to be generated. In general, the report sees ageing as a liability and an impending financial crisis that governments and the community can only address through raising more money.

A year has passed since the release of the report, and I ask the minister to provide me with an assessment of it from the Victorian government's point of view.

Critics of the *Intergenerational Report* have said that while spending on health care for ageing Australians will increase, it will do so in line with the general increase in health care costs. They say that new health care technologies, a growing demand and rising expectations are the real source of increasing costs, not ageing in itself.

Dr Pamela Kinnear, a research fellow at the Australia Institute, wrote at the time of the report's release :

> Population ageing has been 'framed' and its contribution to future health costs widely exaggerated in popular and political rhetoric.

The vast majority of senior Victorians lead healthy, active and independent lives with only a small minority needing residential care or professional assistance for daily living.

I understand that the number of dependent senior Victorians is often overstated and will decline. Older people make a significant contribution to society. The Victorian government's *Forward Agenda for Senior Victorians* clearly supports the view that ageing is a social benefit. In the introduction to the agenda the minister states that the Victorian government will work to build an age-inclusive society and will develop policies and programs that resource seniors, and not merely service them.

The agenda looks to improve the health of senior Victorians and to increase their independence, sense of safety and level of physical activity. It also seeks to increase seniors' participation in the work force and lifelong education. This approach rejects the deficit view of ageing that informs the federal government's *Intergenerational Report* that conceptualises ageing as a threat.

Gas: SEA Gas pipeline

Hon. J. A. VOGELS (Western) — I seek action from the Minister for Energy Industries which relates to an article headed 'Pipeline Repair Money' as reported in the *Warrnambool Standard* of 2 October.

I take this opportunity to applaud the rehabilitation bond placed on SEA Gas for repair works on its Port Campbell–Adelaide easement, and the minister's suggestion of making all future pipeline builders lodge a bond and rehabilitation plan.

The action I seek is to ensure that the rehabilitation works are closely monitored by an impartial independent body that understands the local farming practices of that area — that is, local Landcare groups, discussion groups or farmer organisations — if there is a dispute between the farmer and the pipeline company. It should not be left to hired consultants working for the pipeline company to be the arbitrator.

There should also be enough money in a bond to make the punishment fit the crime, if necessary. I have now watched three major pipeline constructions across south-west Victoria, and a few smaller ones, and with the expansion of the gas industry no doubt there will be many more to come.

These constructions are a real nuisance and come at a cost to our farmers for the benefit of our urban dwellers. In most cases the local communities are not even connected to the grid; they are bypassed in the rush to get gas to the major centres. There is no doubt that since the privatisation of our utilities, such as gas and water, the government of the day needs to be vigilant in ensuring that these private companies that enter into contracts are held to account when the works are undertaken.

I have no doubt that the intention of the pipeline companies is to as quickly as possible, with the least amount of damage done, get in and out of each property. However, due to weather conditions, terrain traversed, hold-ups of supply et cetera, things go wrong. Farmers who believe they have lost production or suffered damage to their land greater than expected when they signed easement agreements need to be adequately compensated. While this is a good initiative from the minister, it is important that he take action to ensure that the concerns out there are addressed and that any extra rehabilitation required is adequately funded and overseen and signed off by local authorities.

Women: safety strategy

Ms HADDEN (Ballarat) — I raise a matter with the Minister for Women's Affairs in the other place, the Honourable Mary Delahunty. The issue is to do with the achievements and strategies for women in my electorate, which largely covers a rural and regional area.

The Bracks government, together with the former minister, Sherryl Garbutt, and the current minister, Mary Delahunty, has delivered for women, especially since the first ever women's round table forum held at the historic Blythewood Grange function centre in Sebastopol, now a suburb south of Ballarat, in 2000. Some of the achievements since then have been community leadership grants, women's round tables, a women's honour roll and the women's safety strategy.

The Victorian Women's Honour Roll recognises the contributions of women from all walks of life, and it has included the names of three great women from my electorate: Lady Millie Peacock, late of Creswick, Victoria's first female MP, who was elected to the rural seat of Allandale on 11 November 1933; Mrs Myrtle Muir, a Koori elder and community worker, who has worked tirelessly over the last 40 years for the indigenous community and especially for young Kooris and Koori children; and Ms Jodie Ryan, a young indigenous leader and role model, a member of the Tumbukka Regional Council of the Aboriginal and Torres Strait Islander Commission and an Aboriginal business development officer with a local government department.

The five-year women's safety strategy was released 12 months ago and proposed a comprehensive and strategic policy on women's safety in the home, the workplace and public places. My question to the minister is: what safety strategies are in place or are proposed specifically to address the safety from violence of women, and especially indigenous women, in isolated rural and regional communities?

Consumer affairs: credit cards

Hon. A. P. OLEXANDER (Silvan) — I seek the assistance of the Minister for Consumer Affairs, Mr Lenders. I refer the minister to reports in the *Herald Sun* of 29 and 30 May this year that the average Victorian credit card holder finds themselves in debt to the tune of approximately $2500. I also refer the minister to the fact that over 500 000 Victorian consumers now have credit rating difficulties as a result of tainted credit records. This often restricts their ability to enter into credit contracts, and that can cost them dearly in terms of dollars and lost opportunity.

I wonder how the minister responds to the criticism from consumer groups that the government's draft legal guidelines for dealing with defaults and debt collection are inadequate. Specifically these guidelines only deal with illegal practices and wholly ignore unconscionable conduct on the part of credit collection and ratings agencies. In addition, the Privacy Commissioner has

failed to respond to a single case of breaches of privacy laws by these providers imposing sanctions against consumers in their credit reference records.

I ask the minister: what action will he take to correct the situation so that consumers can quickly and efficiently correct erroneous credit reference records, and what action will he take to ensure that sanctions against credit providers who engage in unconscionable conduct are taken?

Freeza program: funding

Ms ARGONDIZZO (Templestowe) — The action that I wish to raise is for the Minister for Employment and Youth Affairs. It concerns the very successful Freeza youth program. The program is particularly important in providing a safe option for under-age young people in the suburbs, such as Heidelberg, as well as in regional areas in Victoria. I ask the minister to ensure that the Freeza program continues in the future so that young Victorians can enjoy safe and secure music entertainment and cultural events in a drug and alcohol-free environment.

In Templestowe Province 19 Freeza events were conducted during the last term of the Bracks government. A variety of organisations, including Banyule, Manningham and Nillumbik councils, held successful events. Examples of these events included the Rotary Eltham Town Festival's Youth Battle of the Bands, which attracted 2000 young people, and Frog in a Blender, featuring local punk bands. Freeza events allow parents to be safe in the knowledge that their children will be attending a secure, drug and alcohol-free local event.

The Bracks government takes youth affairs seriously and is committed to young people. Therefore I call upon the minister to guarantee future Freeza funding for the young people of Victoria.

Housing: Robinvale

Hon. B. W. BISHOP (North Western) — I raise an urgent issue for the attention of the Minister for Housing, Ms Candy Broad. Whilst a shortage of housing exists across Victoria, it is an absolute priority at Robinvale, situated in the state's north-west. Just over the Murray River in Euston there will be 2000 acres of horticultural expansion over five years by Timbercorp, which will be mainly table grapes. Much of the service component will be provided by Robinvale and therefore Victoria. But on the Victorian side of the river more than twice as much expansion is planned within a 20-kilometre radius of Robinvale.

I understand that the company Select Harvests will manage Timbercorp's proposed 3000 acre expansion along the river, mostly of almonds, over the next three to four years. We see another local company, Olive Grove, also expanding, with citrus, olives, table grapes and also cereal crops. In my travels I have noticed fantastic-looking crops on their property that will yield particularly well.

There will be another large expansion area between Wemen and the Hattah Lakes that will be mainly almonds. We will see the long-awaited construction of the Robinvale bridge start in 2004. It will proceed for three to four years, with a large number of contractors, subcontractors and locals needing accommodation for site managers and employees.

There is land available: some right in the town, some on the flats that require a long-awaited levee bank refurbishment, which will see more land rezoned for housing, and, of course, some land towards the weir that presently has a native title claim ticking away.

So we have the land available and with such expansion we need a wide range of housing to cater for professional people who will manage and build these projects, health professionals who will care for them, teachers, the large permanent work force required to service the horticultural production, plus the construction and seasonal workers who are all an integral part of this expanding and productive area. I request the minister immediately put in place a process to procure the available land to ensure the housing requirements of Robinvale can be met to service the area in the future.

Commonwealth Games: shooting venues

Hon. KAYE DARVENIZA (Melbourne West) — I raise a matter for the attention of the Minister for Commonwealth Games. The matter I wish to raise goes to a final decision being made regarding the venue to host the Commonwealth Games clay target shooting event. I understand that a bid document for the Melbourne Commonwealth Games 2006 proposed that the clay target host be the Melbourne Gun Club and that the full bore be hosted by the Wellsford Rifle Range and the small bore be hosted by the Melbourne International Shooting Club. At this stage I also understand that the only venue to be confirmed to host any of these shooting events is the Wellsford Rifle Range for the full bore.

Members of the Melbourne Gun Club inform me that they understand that it is the proposed venue for the clay target shooting event, but that Sport and

Recreation Victoria, in conjunction with the Melbourne Commonwealth Games 2006 organising committee, is undertaking a study of other potential shooting venues against the venues nominated in the bid document. Members of the Melbourne Gun Club are very enthusiastic about hosting the clay target event, but they need and seek confirmation as soon as possible so that they are able to prepare their venue for the games.

I request that a final decision be made regarding the venues to host the shooting events at the Commonwealth Games and that the successful host be informed so that they are able to carry out all the necessary works required in the staging of these very important international events.

Responses

Mr LENDERS (Minister for Finance) — Mrs Coote had an issue for the Minister for Community Services, Mr Koch for the Minister for Water, Mr Scheffer for the Minister for Aged Care, Mr Vogels for the Minister for Energy Industries, Ms Hadden for the Minister for Women's Affairs, Ms Argondizzo for the Minister for Employment and Youth Affairs, Mr Bishop for the Minister for Housing, and Ms Darveniza for the Minister for Commonwealth Games. I will pass those on to those ministers.

Mr Pullen raised a issue with me in my capacity as Minister for Consumer Affairs regarding the Victorian Automobile Chamber of Commerce and representations that he and the members for Narre Warren North and Box Hill in the Assembly had made and discussions they had had with the VACC. He specifically asked about the progress of the code of conduct for smash repairers and insurers.

I can assure Mr Pullen, as he alerted the house, that the Ministerial Council on Consumer Affairs had it on its agenda at Victoria's instigation to try to resolve this ongoing and longstanding issue. That ministerial council is awaiting a report from the Australian Competition and Consumer Commission (ACCC) and after that will look at what its options are. But for the first time it is the national agenda, at the instigation of the state of Victoria. I thank Mr Pullen for his enthusiasm and initiative in dealing with this important group of stakeholders on this important long-term issue for industry and consumers.

Mr Olexander raised an issue with me regarding credit records and credit contracts. He asked specifically what is the government doing in these areas. He drew the house's attention to an article in the *Herald Sun*. I can assure Mr Olexander that, unlike the previous government which slashed expenditure on consumer affairs and did not take it seriously, this government takes consumer affairs issues very seriously. We are proactive in trying to find solutions. The two issues we look to foremost are empowering consumers and protecting consumers, particularly vulnerable consumers, as Mr Olexander knows. This government will work with the ACCC, industry and consumer groups to try to deal with this particular industry. We are active, proactive and very serious about dealing with these issues. I thank him for drawing my and the house's attention to it.

House adjourned 10.25 p.m.