**PARLIAMENT OF VICTORIA**

# PARLIAMENTARY DEBATES (HANSARD)

## LEGISLATIVE COUNCIL

## FIFTY-FIFTH PARLIAMENT

## FIRST SESSION

## 2 December 2004

## (extract from Book 7)

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

**By authority of the Victorian Government Printer**

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JOHN LANDY, AC, MBE

## The Lieutenant-Governor

Lady SOUTHEY, AM

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**Standing Orders Committee** — The President, Ms Argondizzo, the Honourables B. W. Bishop and Andrea Coote, Mr Lenders, Ms Romanes and the Hon. E. G. Stoney.

## Joint Committees

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

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

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**Family and Community Development Committee** — (*Council*): The Hon. D. McL. Davis and Mr Smith. (*Assembly*): Ms McTaggart, Ms Neville, Mrs Powell, Mrs Shardey and Mr Wilson.

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

**Law Reform Committee** — (*Council*): The Honourables Andrew Brideson and R. Dalla-Riva, and Ms Hadden. (*Assembly*): Ms Beard, Mr Hudson, Mr Lupton and Mr Maughan.

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

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

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

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

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

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

*Hansard* — Chief Reporter: Ms C. J. Williams

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*Joint Services* — Director, Corporate Services: Mr S. N. Aird
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**FIFTY-FIFTH PARLIAMENT — FIRST SESSION**

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**Deputy President and Chair of Committees:** Ms GLENYYS ROMANES

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**Deputy Leader of the Government:**
Mr GAVIN JENNINGS

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The Hon. P. R. DAVIS

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

**Leader of the National Party:**
The Hon. P. R. HALL

**Deputy Leader of the National Party:**
The Hon. D. K. DRUM

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| Baxter, Hon. William Robert | North Eastern | NP | Lenders, Mr John | Waverley | ALP |
| Bishop, Hon. Barry Wilfred | North Western | NP | Lovell, Hon. Wendy Ann | North Eastern | LP |
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| Buckingham, Hon. Helen Elizabeth | Koonung | ALP | Mitchell, Hon. Robert George | Central Highlands | ALP |
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| Hilton, Hon. John Geoffrey | Western Port | ALP | Viney, Mr Matthew Shaw | Chelsea | ALP |
| Hirsh, Hon. Carolyn Dorothy | Silvan | ALP | Vogels, Hon. John Adrian | Western | LP |

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## THURSDAY, 2 DECEMBER 2004



## QUESTIONS ON NOTICE

## TUESDAY, 30 NOVEMBER 2004

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# Thursday, 2 December 2004

**The PRESIDENT (Hon. M. M. Gould) took the chair at 9.32 a.m. and read the prayer.**

## PAPERS

**Laid on table by Clerk:**

Auditor-General — Report on Meeting our future Victorian Public Service work force needs, December 2004.

Parliamentary Committees Act 2003 — Attorney-General's response to recommendations of the Law Reform Committee's report on Administration of Justice Offences.

## MEMBERS STATEMENTS

### Good Guys Good Kid awards

**Hon. ANDREW BRIDESON** (Waverley) — I want to start the day out on a positive note by talking about the Good Kid award program of the Good Guys. I want to congratulate and commend a good corporate citizen that is providing positive behaviour amongst youth in our community. The Good Guys chain of stores has implemented the Good Guys, Good Kid award program.

The Good Kid award program of the Good Guys stores has been especially developed to award and recognise children aged from 5 to 17 years who voluntarily completed charitable work or performed a selfless act which has had a positive impact on either an individual or the community.

Ray Matchett from the Clayton store says that when the firm realised there was no national award program to encourage good children, his company stepped in to fill the gap. The program was launched earlier this year and is designed to encourage our youth to be proactive members of the community.

Since August the Clayton store has given out awards to a young boy whose father had a heart attack; this lad helped look after his father during his recovery, making sure he received his medication and was fed properly. Two 17-year-old girls were given the award for working with disabled children and accompanying them on camps. Another boy was given an award for looking after his autistic brother.

I know these circumstances are relatively broad, but the award is based on community spirit and goodwill. Many nominations have been received by the Clayton store and Mrs Matchett has indicated that she has been overwhelmed by the number of great kids who are out in that area. This is a commendable program. I urge all members to support this worthy awards scheme. Nomination forms are available on the Good Guys web site.

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

### Community services: Karingal children's centre

**Mr VINEY** (Chelsea) — On 23 November I was pleased to attend a ceremony with the Minister for Community Services and the member for Frankston in the other place, and a number of other local members of Parliament, when an announcement was made of the Bracks government's contribution of $500 000 towards a new children's centre in Karingal.

The building of a new $3.5 million centre will commence next year. It will provide high-quality early childhood services — in fact, a one-stop-shop for local families — which will include a kindergarten, child-care facilities, a maternal and child health centre, early intervention and specialist services, playgroups and neighbourhood house activities. Located next to the Karingal Primary School, the children's centre will create a modern precinct catering for the local needs of young families.

This funding announced by the minister is part of a $16 million three-year program to provide up to 60 children's centres across Victoria. This is a great project for the people and families of Karingal. I commend the member for Frankston, Alistair Harkness, for his great work in ensuring that this program is fully funded, and I congratulate the minister, Sherryl Garbutt, on finding $500 000 towards this great project.

### Medicare: reform

**Hon. D. McL. DAVIS** (East Yarra) — My matter today concerns the Labor Party's backflip on the Medicare rebate package — the $1.7 billion package that John Howard's Liberal government took to the federal election. At the time Labor Party members Julia Gillard and Mark Latham criticised this package, but now they have turned around. And I welcome their backflip; I welcome the indication this week that they support what has been decided by the Australian people — the $1.7 billion package that will raise the Medicare rebate on Medicare visits to GPs to 100 per cent of the scheduled fee and will pay an extra $4.50 for each of the standard GP rebates — and that will make a huge difference.

We know what has been occurring since the introduction of the additional GP incentives for regional areas and children, which were introduced on 1 January. There has been a 3.9 per cent increase in the GP bulk-billing rate to the end of March and a further increase to the end of 30 June — a massive increase in the bulk-billing rebate.

I note that what has also occurred in that time is waiting lists in Victorian hospitals have blown out — as this government has been mismanaging — and 42 000 people are waiting for elective surgery in Victorian hospitals. I welcome the mandate of the federal government and the final recognition of that mandate by Julia Gillard and Mark Latham.

## Lake Mokoan: decommissioning

**Hon. R. G. MITCHELL** (Central Highlands) — I rise today to congratulate the Australian Minister for Agriculture, Fisheries, and Forestry, Warren Truss, and the Australian Minister for the Environment and Heritage, Senator Ian Campbell. Why am I doing that? Because they have learned that the Bracks government is a forward-thinking government. They have realised this because they are supporting the decommissioning of Lake Mokoan.

But the federal ministers' state colleagues are running around, hiding in the dark and saying and doing anything to try to get a headline. They have no plans; they have no policies; they have no ideas. The federal government has got on board and accepted that Lake Mokoan is the best way to save water for the Australian environment and protect the Murray River, one of our icon rivers.

Last Friday in Parliament House at a meeting chaired by Minister Truss they approved it. The Liberals should get on board and do what their federal colleagues have done. They should get on board and accept it. The Lake Mokoan idea that was floated by the Victorian government was the right thing to do. It is there to save rivers, it is there for the environment, and the lazy people on the other side of the house should get on board, try doing a bit of work and support Victoria for the good of everyone.

## Mitcham–Frankston freeway: funding

**Hon. G. K. RICH-PHILLIPS** (Eumemmerring) — In September 2002 the Minister for Transport in the other place announced the Mitcham–Frankston freeway project and said that the state government would contribute more than $500 million to the construction cost of that project. That is ironic for members on this side of the house, because in April 2000 the Labor members in the upper house voted against the construction of the then proposed Scoresby freeway. It is ironic that the Bracks government was announcing that project two years later.

As we know, following his election seven months later, the Premier showed that commitment for the lie it was when he announced that the Mitcham–Frankston freeway would be built with tolls and not as a freeway as had been announced immediately prior to the election.

We now have a situation where the government is not spending the $500 million it committed for a free Scoresby freeway, so I ask that the Minister for Transport to commit that $500 million to local road projects. My electorate of Eumemmerring Province continues to be underfunded when it comes to road projects. One of the most pressing needs for a road project is an upgrade of the Enterprise Avenue–Clyde Road intersection, which is now a high-risk intersection.

I call on the Minister for Transport to use some of the $500 million that he will not be spending on the Scoresby freeway because of the tolls to fund the Enterprise Avenue–Clyde Road upgrade, and do it quickly.

## International Day of People with a DisABILITY

**Ms MIKAKOS** (Jika Jika) — Tomorrow we will all be encouraged to celebrate ability as part of the International Day of People with a DisABILITY. The theme of this year's celebration is 'Nothing about us without us'.

As Parliamentary Secretary for Justice, tomorrow I will be attending a disability celebration event hosted by the Department of Justice. This event is intended to enhance access to justice services and to promote cultural exchange between people with disabilities. It also aims to raise awareness of disability issues and to contribute to a greater understanding of the issues experienced in our community by people with a disability.

Speakers at the event will include Ms Rhonda Galbally, AO, the chair of the Disability Advisory Council of Victoria, and Ms Licia Kokocinski, the executive director of Action on Disability within Ethnic Communities.

The Bracks government's vision for Victorians with a disability is embodied in the State Disability Plan

2002–12. The plan is based on fundamental principles of human rights and social justice and takes a whole-of-government and whole-of-community approach to disability. It is the first plan to look at all aspects of life for people with a disability, including disability supports, health and community services, recreation, education, employment, transport and housing.

I encourage all members to participate in one of the many events which are part of the International Day of People with a DisABILITY and to promote and acknowledge the abilities and achievements of people with disabilities, not just tomorrow but every day.

## Bayside: mayor

**Hon. C. A. STRONG** (Higinbotham) — I would like to reflect this morning on Bayside City Council's selection of Cr Tucker as its new mayor. Cr Tucker, as a Labor candidate, was rejected by 70 per cent of Bayside residents barely seven weeks ago, but he is now being placed over them by a totally out-of-touch, totally politically motivated and left-leaning council. What absolute arrogance by a council! It has no feelings for its residents.

Clearly Bayside residents have now got the clearest indication possible of the political leanings of their council in the very act of placing this man who was rejected by 70 per cent of them as mayor. These leanings in no way reflect the mainstream of Bayside views. With barely 12 months before the next election I can tell the house that the polls will decide that this Bayside council is totally out of touch. The polls will bring the council to account for this action of placing as mayor a man who only seven weeks ago was rejected by 70 per cent of them.

**An honourable member** interjected.

**The PRESIDENT** — Order! Mr Strong has had his turn. I have called Ms Lidia Argondizzo. I ask members on both sides to desist from interjecting.

## Balwyn High School: 50th anniversary

**Ms ARGONDIZZO** (Templestowe) — On 24 November I had the pleasure of representing the Minister for Education and Training in the other place, Lynne Kosky, at the Balwyn High School jubilee presentation night. The jubilee celebrates the 50th year since the establishment of Balwyn High School. I would like to take the opportunity to congratulate the school principal, Mr Bruce Armstrong, his staff and students and the president of the school council, Wayne Heathcote, on the impressive and entertaining evening that was organised for the presentation night.

The jubilee presentation night was held in Hamer Hall at the Victorian Arts Centre and was well attended by a capacity crowd. The evening contained formal acknowledgments of awards presented to students at each year level, and entertainment by students and teachers. The entertainment included musical productions and all the school orchestras and bands, each of which demonstrated high levels of skills and proficiencies. I wish to specifically acknowledge the dux of the school for 2003, Mr Jeremy Rosen, whose tertiary entrance rank or TER score was in the top 1 per cent in the state.

I was impressed by the diversity of the ethnic backgrounds of the award winners and the diverse range of subjects to cater for the educational needs of its students. Balwyn High School is recognised for its outstanding academic performance, which is a credit to the hard work and dedicated staff and students at the school. The evening provided me with a clear demonstration of the standards that can be achieved within the public school system.

## Disability services: funding

**Hon. D. K. DRUM** (North Western) — Tomorrow is International Day of People with a DisABILITY, and for the benefit of honourable members I indicate that the word 'disability' has been set out in such a way that it has emphasised the word 'ability'. I would like to take to task Ms Jenny Mikakos for her statement on the government's disability plan that she so clearly parades as a beautiful document to read. Unfortunately the government's actions are totally contrary to some of the policies that exist in that document. If the government is going to produce a beautiful glossy magazine, it should ensure that it carries out the actions it espouses, particularly concerning the choice of accommodation for people with a disability, because it is not offering choices for people with disabilities. Since July 2000 the Bracks government has cut the commonwealth-state-territory disability agreement funding, on a dollar-for-dollar basis, by 8 per cent, and it needs to be made accountable for those cuts. This has meant that over $300 million has been removed from the state's contribution, compared with what it received from the federal government.

In the seven years that the Kennett government was in office it increased disability funding by more than 80 per cent, which compares favourably against the 59 per cent by which this government has increased disability funding. Since 2000 the urgent waiting list for

in-home support has more than tripled, and we need to be aware of that. We call on the government to reclassify the funding and increase its payments on a per capita funding shortfall.

### Scienceworks: tourism award

**Hon. KAYE DARVENIZA** (Melbourne West) — I want to take this opportunity to congratulate Scienceworks for winning the very prestigious Hall of Fame award within the Significant Tourist Attractions category in the Victorian tourism awards. This is the third consecutive year that it has won this major award, which recognises venues which make a significant contribution to the tourism experience. I congratulate Ms Gaye Hamilton, the Director of Museum Victoria, and all the staff at Scienceworks, for their dedication and commitment to making science and technology an exciting and enjoyable experience for all who visit Scienceworks and the planetarium at Spotswood.

Scienceworks has been operating for more than 10 years, and it demonstrates how a run-down building and pumping station, left over from a western suburbs industrial era, can become a hub for the whole state, where a hands-on experience can really make learning about science and technology a lot of fun. I would encourage all members to take some time out during the summer recess from Parliament to visit Scienceworks and experience first hand the excellent museum there, because it will be a well worthwhile experience.

### Lupus: research grant

**Hon. J. H. EREN** (Geelong) — Lupus is a condition of chronic inflammation caused by an auto-immune disease. Auto-immune diseases are illnesses which occur when the body's tissues are attacked by its own immune system. One of the mechanisms that the immune systems uses to fight infections is the production of antibodies. Patients with lupus produce abnormal antibodies in their blood that target tissues in their own body rather than foreign infectious agents. Lupus can cause disease of the skin, heart, lungs, kidneys, joints and the nervous system. When only the skin is involved the condition is called discoid lupus. When internal organs are involved the condition is called systemic lupus erythematosus. Lupus is more common in women than men. The disease can affect all ages but most commonly begins from age 20 to 45 years.

It is terribly debilitating illness. That is why I was pleased to read in the November edition of *Monash News* that a Monash University research team has received a US$1 million grant from the prestigious National Institutes of Health. Apparently it is rare for the NIH to allocate grants to research groups based entirely outside the United States of America. Dr Michael Hickey, Associate Professor Eric Morand and Dr Michelle Leech from the Centre for Inflammatory Diseases at Monash received the grant. I wish them all the best in their endeavours to find a cure for this devastating illness.

### Tenzin Delek Rinpoche

**Ms CARBINES** (Geelong) — Victorian MPs for Tibet firmly oppose the death sentence placed upon the Tibetan Buddhist monk, Tenzin Delek Rinpoche, in Sichuan Province, China. Execution is scheduled to take place today. Tenzin Delek Rinpoche is a strong supporter of Tibetan culture, religion and language who has built schools, medical clinics, an orphanage and old-age homes for Tibetans living in his home region of Ganzi, Tibet. We believe he has been unfairly targeted for his support of the Dalai Lama. Tenzin Delek was sentenced to death two years ago for alleged involvement in bomb explosions in eastern Tibet. This is despite the fact that he has maintained his innocence of this crime and that he was subject to an unfair trial where no credible evidence linking him to the crime was released. He was granted a two-year reprieve by Chinese authorities in the Tibetan Autonomous Prefecture Intermediate People's Court in Sichuan Province, a reprieve which ends today.

The execution of Tenzin Delek Rinpoche will serve no purpose. A highly respected Tibetan leader will lose his life and the Chinese government will once again be viewed as cruelly intolerant of basic human rights. This death sentence is an example of the Chinese government's denial of Tibetans' freedom of speech and expression. On behalf of all concerned Australians, Victorian MPs for Tibet urge the federal government to take up the case of Tenzin Delek Rinpoche and make strong diplomatic representation on his behalf to Chinese authorities in Canberra and Beijing that he not be executed.

## STATEMENTS ON REPORTS AND PAPERS

**The PRESIDENT** — Order! The question is:

That reports and papers tabled in the Council be noted.

### Department of Primary Industries: report 2003–04

**Hon. PHILIP DAVIS** (Gippsland) — I wish to make a statement on the annual report of the

Department of Primary Industries for 2003–04. I note the department has a relatively small budget compared to many others. Indeed the turnover of expenses of the Department of Primary Industries for that year is $311 839 000. However notwithstanding this comparatively small budget the department has what appears to be an excessive number of senior executives. The turnover is not reflected in the executive level appointments, where there are 19 in total in the income band $100 000 to 209 000. The gross amount paid to these 19 executives is $2 278 000, which is an average of $119 894.

People might wonder why I raise this issue. I raise it specifically because the secretary's introduction to this report indicates that the department is congratulating itself for reinvigorating bushfire-affected communities. In the context of that claim by the secretary I thought I should examine what in fact the Victorian government has contributed to those communities.

We can be informed by the fact that the total amount paid to land-holders who are directly impacted by the bushfires was less than $1 million from an available $5.3 million for fencing assistance. In fact only $330 000 went directly to assisting farmers to replace fencing — a parsimonious amount, one may say, but I make the point that those people who were directly affected are still grieving nearly two years on. In a sense I am looking forward to the publication within the next few days of a book, a compilation of accounts of the way in which people were directly affected by the firestorm in the alpine area nearly two years ago.

The book, titled *Flames Across the Mountains*, is coordinated by Leanne Appleby with assistance from Sandra Livingstone, and the community development officer in East Gippsland, Brian Blakeman. It is comprised of individual stories and accounts of how people and families were directly impacted. These are horrific stories of people being overwhelmed by firestorm, having to abandon their houses as they exploded in flames, and running to submerge themselves in farm dams for up to 40 minutes to avoid being incinerated.

These are stories of people who have lost all the material assets of their farm property because the fire that came out of the state-controlled national park and state forest was so overwhelming. It has stories of people like Buff Rogers who had to abandon his farm to protect the house, David Woodburn who was one of those who had to seek shelter in a dam, and Bill and Sandra Livingstone who literally lost all the physical infrastructure of their property.

I have to say to the secretary of the Department of Primary Industries that it is hardly appropriate for the department to be claiming great credit on behalf of the government for invigorating bushfire-affected communities, because it is their opinion and mine that little has been done to help them.

## Victorian Law Reform Commission: defences to homicide

**Ms HADDEN** (Ballarat) — I wish to make a statement on the Victorian Law Reform Commission's final report entitled *Defences to Homicide* 2004. At the outset I wish to acknowledge and pay tribute to the commission for the extensive research that it has undertaken in completing this final report — that is, research and consultation, discussion papers and issues papers over the past three years since the reference was given to it by the Attorney-General in 2001. I also acknowledge the chairperson, Professor Marcia Neave, who in fact was my property law lecturer at Monash University many long years ago. I also acknowledge Professor Neave's advisory committee and the staff of the commission for their great work.

It is a very complex final report. It has 360 pages and contains 56 recommendations. These deal with the law of homicide, which is an unlawful killing, and for reform of our law and how it can be improved within our justice system. I will touch on a few of the major recommendations, but at the outset it is important to note that the commission noted that many of the recommendations in the report, including the abolition of provocation and changes to self-defence, are put forward on the basis that they be adopted in their entirety as a package, and the commission strongly cautions against the implementation of the recommendations relating to individual defences without proper consideration of the broader framework. Upon a thorough reading of the recommendations and how they all roll into one another, especially in relation to recommendations for sentencing, that becomes understandable.

In relation to provocation, the commission recommends that the partial defence of provocation should be abolished and that the circumstances of the offence, including the facts behind the provocation, should be taken into account at sentencing as they currently are for other offences.

It further recommends that the law of self-defence and other defences of duress and necessity should be codified in the Crimes Act and that the factors which may assist the jury in determining whether a person who has been subject to family violence by the

deceased acted in self-defence or under duress should be included in a separate provision on evidence.

It recommends that a new self-defence provision be put into the Crimes Act so that a person may believe that the conduct carried out in self-defence is necessary and the person's response may be reasonable, when the person believes the harm is inevitable, whether or not it is immediate.

The commission recommends that the partial defence of excessive self-defence which was removed in 1987 should be reintroduced into our Crimes Act. It was a defence up until then, until the High Court case of Zecevic. It has since been reintroduced in South Australia and New South Wales, and the commission recommends it be reintroduced back into Victoria.

The commission also recommends that duress and extraordinary emergency should be available as defences to murder and manslaughter in this state. It also recommends that the exceptions to the hearsay rule be amended so that an exception to the hearsay rule to allow admission of evidence of a previous representation or violence can be made, and it gives a number of instances of how that exception should apply.

The commission, as it has done in previous reports, provides a draft of its proposed amendments at the back of the report. It also importantly looks at and recommends expert evidence changes, so that where self-defence or duress are raised in a criminal proceeding, and the accused alleges a history of family violence, an expert is able to introduce evidence of the abusive relationship, psychological effect of the abuse and the social and economic facts that impact on the person. I recommend the report to — —

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

## Department of Victorian Communities: report 2003–04

**Hon. ANDREA COOTE** (Monash) — I rise today to speak on the annual report of the Department of Victorian Communities for 2003–04. I have to say I have some sympathy for Yehudi Blacher, who is the secretary of this department. It must be an impossible department to try to manage, and this is a report of 183 pages of almost rhetoric. It is self-justification. It is trying to justify what is in fact a whole range of loose threads.

This is the second full year that the Department of Victorian Communities (DVC) has been in operation and it is still not able to clarify adequately for the public exactly what it is all about. We saw a fairly disgraceful performance by the minister in the Public Accounts and Estimates Committee not so long ago. Indeed he did not seem to understand what the department was all about. He was having significant problems and had to continue to come back with information on it, because he himself was uncertain. But just so that everybody understands how broad ranging this is, in the secretary's own foreword, he says:

> DVC now brings together 10 portfolios with key community strengthening interests and responsibilities. This unique approach — supporting an organisational culture which is both strong and broad — has allowed us to respond to the complexities inherent in community strengthening that would undoubtedly challenge more traditional structures.

We almost need a translation for that. It goes on to say:

> Our aims for the future remain the same as those we set out to achieve at the start — to make sure that more people have the opportunity to work together to fulfil their needs and aspirations, to build the potential of communities and create opportunities for more people to participate, to support the construction of community infrastructure, and to make government information and services more accessible to all Victorians.
>
> We will do this by listening to and connecting communities, by involving stakeholders and partners, by acting as facilitators and brokers between the community, government and the private sector ...

That costs Victoria an extraordinary amount of money, and we have here an incredible number of fat cats sitting out there on huge salaries. The increase in the salaries has been absolutely astronomical. I will refer the house to the number of people earning over $100 000 : in 2003 it was five people; and — surprise, surprise — in 2004 there were 21 people earning between $100 000 and $239 000. This is an enormous increase and once again it is these vague aims that this department is trying to bring in. In this annual report we have 14 pages dedicated specifically to whistleblowers, which I thought was quite interesting considering that one of the most important things that this does is embrace the Community Support Fund. This fund was set up under the Kennett government to make certain that seed funding was given to a whole range of organisations to help them with their respective functions and also give them an opportunity financially to get something going. We now find that this Community Support Fund has become a slush fund for this government. We have found that instead of seed funding, the government is funding extraordinarily large amounts of money into various departments which is being refocused and re-syphoned out into other departments and rebadged. We have seen, for example, the diabetes and obesity money —

$10 million which was supposed to go the Department of Human Services — has been rebadged about three or four times and we are still yet to see the transparency of this money. It has come out of this Community Support Fund, been sent to the Department of Human Services, then sent and rebadged into GROW in Victoria, or 'Getting stronger or fitter', or whatever it is that the government is talking about now, and it will be interesting to see if this money ever gets to either the diabetes or obesity programs.

There are other amounts of money listed in the Department for Victorian Communities report. These costs are listed as amounts and it is impossible to work out the volume of this report. I have made a series of freedom of information (FOI) requests. It seems very difficult for the department to come back and understand what those FOIs are doing. This is a government department that has no transparency and no accountability, and we have 183 pages of rhetoric and spin. The tragedy is that this government seems to believe it. It is ridiculous.

## Housing Guarantee Fund: report 2003–04 Domestic Building (HIH) Indemnity Fund: report 2003–04

**Hon. S. M. NGUYEN** (Melbourne West) — I would like to offer my contribution on the financial statements for the Housing Guarantee Fund Ltd annual report and the Domestic Building Indemnity Fund (HIH) financial report for 2003–04. The Housing Guarantee Fund has continued to have success in the run-off of HGF claims relating to the house contracts guarantee. In 2001 HGF was appointed to administer the Domestic Building (HIH) Indemnity Fund. This fund was established by this state government to assist home owners who purchased builders warranty insurance from FAI and HIH from the period May 1996 until March 2001. The state government is committed to rescue those who have lost money in the HIH and HGF. This financial year the organisation has received about 3000 claims. The report states, in part:

> The volume of work involved in 'HIH' claims has remained sufficient to maintain the number of staff compared to the ... previous years.
>
> ...
>
> Last year HGF recognised the need to inform the public of the availability of the government's rescue package and in the period January to June 2004, a public awareness campaign was initiated.

The advertising was in the city and regional newspapers, and invited potential claimants to visit the web site or to telephone directly. There were some chances to spread information to the people who suffered. It states:

> There was also widespread distribution of brochures, advising the eligibility of claims under the government assistance package.

The government tried to help the victims through advertising on the Internet and giving information to the clients. The report also states:

> In the last financial year HGF processed both HGF and HIH claims and in the last 12 months finalised:
>
> 119 HGF claims at a cost of nearly $1.5 million; and
>
> 682 HIH claims at a cost of $2.8 million.
>
> As at June 2004 total claims in progress were 600.
>
> Since the inception of the government's HIH rescue package in June 2001, HGF has processed 2854 HIH claims at a total of $18.5 million.
>
> HGF continues to be successful in its recovery effort against builders who have caused claims. Whenever HGF pays a claim, it seeks full recovery from the builder. This year without builders' securities as a backup, we still achieved total recoveries in excess of $840 000 (both HGF and HIH) via conventional debt collection methods.

I congratulate it on its good work and for achieving those results. The report has been shown to the public and the organisation has worked with the state government's scheme to rescue the people and also in many cases it has been involved with Victorian Civil and Administrative Tribunal.

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

## Auditor-General: financial statement June 2004 report

**Hon. D. McL. DAVIS** (East Yarra) — My contribution today relates to the Auditor-General's report on the finances of the state of Victoria for 2003–04 and to comments about the annual reports of Eastern Health, Southern Health, Peninsula Health and the Bendigo Health Care Group. I think the report tabled by the Auditor-General yesterday, dated December 2004, was a bombshell for the Bracks government. It is an indication that the government is not managing health care services in this state well and that when it comes to financial credibility, this government is in serious trouble.

Not only are many reports late in their tabling — Parliament has witnessed delayed tablings yet again this year — but frighteningly we have discovered that half of Victoria's hospitals have recorded adverse financial

results. The Auditor-General said that at 30 June 2004 about half — that is, 47 — of Victoria's public hospitals registered adverse results in at least two of our indicators of financial difficulty. There were only 37 of those in 2002–03.

**Ms Romanes** — On a point of order, President, Mr Davis appears to be speaking on the Auditor-General's report that was tabled yesterday *Report on Results of 30 June 2004 Financial Statement and Other Audits*. It is not on the list of reports that I see here for discussion this morning.

**The PRESIDENT** — Order! For clarification, on the point of order the member can only refer to reports that are listed on the notice paper.

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

**The PRESIDENT** — Order! I have to say I did not hear all the comments that the honourable member made but I draw the house's attention and the member in particular to the fact that he may only refer to any of the items, of which there are 13. He may only refer to any of the reports listed on the notice paper.

**An honourable member** interjected.

**The PRESIDENT** — Order! Yes, in your time, any one of the reports on the notice paper.

**Hon. D. McL. DAVIS** — On a point of order, President, I indicated in my preamble at the start of my contribution that I would be referring to the Auditor-General's report listed on the notice paper and also to a number of the health reports which I enumerated one by one. I made a further point that I would talk about other factual matters.

**The PRESIDENT** — Order! Notice has been given of the reports for today, and the member must speak on the reports and not other reports that may have been tabled and are not on the notice paper.

**Hon. Bill Forwood** — On the point of order, President, I suggest that your ruling, if interpreted narrowly, would prevent any member of this place from touching on anything that was not in a report, and that is surely not the intention. The intention is that members speak on the report but they can use the report to adumbrate other ideas and other things as well, such as public matters and other information from newspapers. You cannot say that the only thing that can be referred to is the report itself, because that would make a nonsense of the time. Yes, members must talk on the report, but they can use other information to outline other issues connected with the report. The debate cannot be so narrow that members cannot mention anything other that what is in the report itself; otherwise it would be a nonsense.

**Mr Lenders** — On the point of order, President, the purpose of having statements on reports and papers was to make a specific time in this Parliament to speak on reports. President, you further ruled that a member does not have to speak on a single report but can speak on any of the reports on the list. I accept the point that you cannot limit debate on a report to simply that report, but to specifically refer to another report that is not on the notice paper, I would argue, is very much in breach of the intention. It is the reports in general, but another report is too specific, and it should be ruled out.

**Hon. D. McL. DAVIS** — Further on the point of order, President, it seems, as the Honourable Bill Forwood pointed out, that that would allow a very narrow position and would restrict debate, for example, on the equivalent report of the year before, which could be juxtaposed to that report. It would restrict debate on matters of public knowledge that are in the press, including in this morning's *Herald Sun*, that relate to many of those exact reports.

**Ms Romanes** — On the point of order, President, Mr David Davis made specific reference to the Auditor-General's report that was tabled yesterday and to specific information in it.

**Hon. Philip Davis** — President, I was listening carefully to the point of order and the debate about it, not that there should have been a debate, and the issues which have been raised, in my view, are all pertinent. To summarise, when a member speaks to a report clearly he or she may introduce material that is not within the report. Indeed in an earlier statement I gave today I alluded to a book that was about to be published, for example, and I see that the point my colleague the Honourable David Davis made is that he is speaking to the Auditor-General's report, as is appropriate, and referring to other reports in the context of his submissions in respect of his statement on the Auditor-General's report. To limit a member to narrowly discussing a matter which is formally listed and not allow him to introduce related information would so circumscribe the debate in this place that it would be ludicrous. It is certainly not a practice which the house has entertained in relation to debates previously.

**Hon. J. G. Hilton** — On the point of order, President, my understanding is that Mr David Davis intended to speak on the Eastern Health report. If he wishes to speak on other reports in relation to that

report, then that is fine, but I believe his initial statement was that he wished to speak on the Auditor-General's report and make reference to other health reports. I believe that is not in accordance with the matter listed on the notice paper to which he wishes to speak.

**The PRESIDENT** — Order! With respect to statements on reports and papers listed on the first page of the notice paper I have ruled previously that a member may speak on any one of the reports listed. They can start by saying, 'I will talk on Peninsula Health', and speak for 1 minute and then speak on the Housing Guarantee Fund Ltd, for example. The member does not have to nominate all of them at the initial stage, but may nominate them during the course of their 5-minute contribution.

With respect to the point of order raised by Ms Romanes and the comments by the Leader of the Opposition, a member may only refer to the reports on the notice paper. If a member introduces other information, and the Leader of the Opposition gave an example about a book, then I do not have a problem with that, but I have a problem with a member introducing another report that has been tabled in the house and is not on the list. That member must not refer to that report.

It is clear under sessional order 17, which deals with statements on reports and papers, that the President will propose the question and members have 5 minutes to speak on any report or paper proposed for discussion that day — not other papers or reports that are not on the list. A member has the ability to speak on any matter listed on the notice paper, and they can speak on as many matters as they can in their 5-minute allocation. But members should not speak on other reports that are not on the list.

**Hon. D. McL. DAVIS** — On the point of order, President, as a point of clarification, I will explain precisely what I intended to say to try to understand how the house is to proceed. One of the points I wanted to make was about the deficit of Southern Health, which is contained in its report. There is a debate being carried on in the community, and I know Mr Pullen has put Southern Health on the list. I enumerated that at the start.

The point is that there is a debate about the size of the deficit at Southern Health, and I intended to make the point that Southern Health is the largest network in the state. The point I wanted to debate was the size of the deficit from information of past years and information from public documents, including the *Herald Sun* this morning — —

**The PRESIDENT** — Order! I will not have debate on the point of order. I have made a ruling which is that a member may speak on a report that is listed on the notice paper but may not refer to other reports that are not on the notice paper. The member can refer to issues, such as the example the Leader of the Opposition did regarding a book, but it must be relevant to the report the member is referring to.

**Hon. Bill Forwood** — On the point of order, President, I do not want to prolong this, but it is important that we have clarification. I think every member of this place accepts that they cannot speak to a report that is not on the list. We are all clear about that. But there is a case when a member may say, 'I am talking to these particular aspects of these reports', but during the course of doing so may say, for example, 'As you all know, and as is widely reported in the media, as well as in these reports, there is another report which is not on the list which also says this'. The point is that the member is not speaking to the extra report that is in the public domain and not on the list, but he or she is saying that it is relevant to these particular reports, and it is a throwaway line.

This is not dealing with the other report; what it is saying is that the comments that are being made in relation to whatever reports are on the list are also, by way of inference or actual fact, in the public domain through another report as well. So the point needs to be clear: that no-one is arguing that to speak on a report it must be on the list. What must be allowed, though, is for people to develop their argument in a coherent and cogent manner.

**The PRESIDENT** — Order! Since I have been here as President I have given members some latitude in speaking on reports. With respect to the time allocation, a member has 5 minutes. If in passing they refer to another report, I think we could let that go. However, if it goes on — and because we are talking about a maximum of 5 minutes — in any detail, the member will be pulled up on a point of order and will have to go back to the report listed. They are not to refer to reports that are not on the notice paper in any substantive manner. That is what the sessional order was brought in for. If you want to make reference to it, put it on the notice paper for the next Thursday sitting day.

With respect to the member, he has made reference to the other Auditor-General's report. It is not on the notice paper, so I ask him to steer away from that and to refer to the reports that are on the paper.

**Hon. D. McL. DAVIS** — President, I am very happy to refer to the reports that are on the notice paper, and to make the point that Southern Health has reported a $27 million deficit this year. In truth, the deficit last year was $26 million, which was made up of almost $13 million declared in the annual report and $13 million rent or lease of forgiveness in the last year's financial report for Southern Health. So the truth will finally come out on Southern Health, with a deficit of over $27 million.

That is a sign that the Southern Health network is in crisis. It is a network that is making an overly large contribution to the more than 42 000 Victorians who are on the emergency waiting lists. I note that other reports tabled in this house have dealt with the situation at Southern Health and its growing problems.

I also make the point that at Eastern Health last year the government washed through well over $10 million of capital money to try to artificially pull the deficit down. This year I believe the same thing is happening again. Eastern Health has had money pulled through to enable its deficit to be brought down artificially.

I would argue that the board minutes from Eastern Health that I cited for last financial year indicate there was a great deal of unease in the audit committee about what they were doing by deceiving Victorians and people in the eastern suburbs on the true nature of the deficit.

I also make the point that at Peninsula Health there is a massive deficit this year. I am sure Mr Hilton will be able to explain to the community why there is a deficit of such size down at Peninsula Health, why the ambulance bypass situation at Peninsula Health is worsening in the way it is, and why the waiting lists at Peninsula Health have grown the way they have over the last five years.

It is a frightening situation across this state. At those major metropolitan networks, Peninsula Health, Southern Health and Eastern Health, a massive financial position — a deficit — is developing, and that is directly affecting patient services. We saw with Southern Health the reports of ambulances queuing at the emergency department recently. Those queuing ambulances were unable to unload their desperately sick patients.

We also know of the misuse of the new hospital early warning system (HEWS) by the Bracks government and the failure to declare the number of HEWS occasions at Peninsula Health, Southern Health and Eastern Health. As I have done on a number of occasions in the house, I urge the government to declare the true number of bypasses and ambulance diversions that are caused by the HEWS system.

We know that in the last quarter there may have been between 900 and 1000 ambulance diversions that occurred in the metropolitan area. A disproportionate number of those occurred at those three networks — Peninsula Health, Southern Health and Eastern Health. I can only say that the ongoing information that comes out about the financial position of these networks — in the *Herald Sun* today — about the finances — —

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

## Peninsula Health: report 2004

**Hon. J. G. HILTON** (Western Port) — I also will make a statement on Peninsula Health, but in direct contrast to the previous speaker I will be positive about the results of Peninsula Health. I will be positive about the many hundreds of dedicated, committed people who work at Peninsula Health for the benefit of the many hundreds of thousands of people who rely on that network for their health. I will not resort to hyperbole nor to scaremongering, and I will not resort to statements which are designed to make the community lose faith in their community health service. I will actually be positive in terms of what Peninsula Health has done.

Peninsula Health had 63 000 emergency attendances last year. It provided 294 000 community health and outpatient services. Since the Bracks government came to power in 1999, Peninsula Health has employed an extra 312 nurses. It has provided $4.5 million for medical equipment, which the hospital has used to purchase a CT scanner for cancer treatment, a fluoroscopy X-ray machine, 75 new electric beds and new mattresses, and a range of general medical equipment items for the wards.

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

**The PRESIDENT** — Order! Mr David Davis has had his turn.

**Hon. J. G. HILTON** — Thank you, President. I can only presume that Mr David Davis wishes to interject because he does not like the truth. Mr Davis, again in his usual overexaggerated way, referred to a massive deficit.

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

**The PRESIDENT** — Order! Mr Davis has had his opportunity.

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

**The PRESIDENT** — Order! If Mr David Davis continues to interject after I have asked him to desist, I will invoke sessional orders on him.

**Hon. J. G. HILTON** — Thank you, President. I repeat: Mr Davis obviously does not like the truth; he never likes the truth to intrude on a good scaremongering story.

**Hon. Bill Forwood** interjected.

**Hon. J. G. HILTON** — I will refer directly, Mr Forwood, to the annual report — which is this document. Mr Davis referred to a massive deficit.

**Hon. Bill Forwood** — What is it?

**Hon. J. G. HILTON** — The deficit in terms of — —

**Hon. Bill Forwood** — What is the document? Identify it.

**Hon. J. G. HILTON** — It is the financial statement of 2003–04 for Peninsula Health.

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

**The PRESIDENT** — Order! Mr David Davis!

**Hon. J. G. HILTON** — Thank you, President. The surplus for the year — before capital purpose income, depreciation, amortisation and specific revenue and expense — was $1.678 million. That can be compared to a deficit of $1.419 million last year. That is a turnaround of $3 million. That is as per the annual accounts, which are available for all members to peruse.

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

**Statements interrupted.**

## SUSPENSION OF MEMBER

**The PRESIDENT** — Order! I have warned Mr David Davis about interjecting on the member. Under sessional order 31 he will leave the chamber for 30 minutes.

**Hon. D. McL. DAVIS (East Yarra) withdrew from chamber.**

**Statements resumed.**

**Hon. J. G. HILTON** (Western Port) — Thank you, President. I never cease to be amazed by the absolute hypocrisy of opposition members when they come in here criticising the performance of our fantastic regional health services. It needs to be put on the record, which it has been many times, that the Liberals closed 12 hospitals, they sacked 2000 nurses, they increased waiting lists by 22 per cent in the last two years of the Kennett government, and the ambulance bypass increased by 359 per cent in its last year. The Victorian Bracks government inherited a basket case of health issues. We have invested many millions of dollars to reduce that mess. We are improving it every year. This is a fantastic commitment, and I applaud this report.

## Victorian industry participation policy: report 2003–04

**Hon. G. K. RICH-PHILLIPS** (Eumemmerring) — I rise to speak on the *Victorian Industry Participation Policy — Report to Parliament*, 2003–04. In 2001 the Minister for State and Regional Development in the other place introduced the Victorian industry participation policy. This policy requires firms that are bidding for Victorian government work to consider the participation of Victorian industry in those contracts. It applies to bidders for metropolitan work with contracts of $3 million and above and to rural contracts greater than $1 million. It also requires a Victorian industry participation action plan to be put in place for larger contracts. In the case of metropolitan contracts the figure is $50 million and above, and for rural contracts it is $5 million and above.

In October of 2003 the Victorian government introduced the Victorian Industry Participation Policy Act. The opposition was critical of the bill at the time, because it simply required the Victorian government to have a Victorian industry participation policy, when two years prior the government had already introduced such a policy; so it was legislation that required the government to do something it had already done two years earlier. One of the requirements of the legislation was for the government to table in Parliament a Victorian industry participation policy (VIPP) annual report. The report before the house today is the first of such reports under that legislation. There is nothing contained in the report that would not have been available to members through the departmental reporting process, so the government has put a redundant process in place by requiring that the VIPP report be tabled.

I now turn to some of the figures that are reported in the VIPP report, and they are of interest in that they report aggregates since the introduction of the VIPP in 2001. For the first year of that policy, commencing April 2001 to December 2001, 25 projects with a value of $128 million came under the scope of the industry participation policy. In 2001–02, that increased to 46 projects worth $816 million. In 2002–03, it was 56 projects worth $970 million, and for 2003–04 it was 99 projects worth $2.94 billion. The report notes that the rapid increase in the most recent year is related to two projects valued at $2 billion, so there is a very large extraordinary item contained in there.

For the last three years the report also quotes the number of jobs that have been created under this program: 1200 for 2001–02; 4993 for 2002–03; and 12 762 for 2003–04. What is important about these figures is that they report simply on the number of jobs and the value of projects that have come under the Victorian investment policy. What they do not indicate, however, is how many of these jobs in these projects would have existed in Victoria anyway if not for the Victorian industry participation policy, because there is no doubt, particularly with the smaller projects, that much of this work would have been done by Victorian contractors using Victorian employees.

The weakness of this report is that it does not distinguish between work that would have taken place here in Victoria using Victorian employees anyway as distinct from work that would have gone either interstate or overseas. So despite the government requiring the tabling of this report under the legislation that was passed last year, there is nothing in the report that tells us what the impact of the policy has been and whether there has been any net gain by virtue of the policy rather than simply employment and employment-generated work undertaken in Victoria that would have occurred anyway.

Given that there is no specification in the act as to what the government must report in the annual report, I encourage the minister next year when tabling the report to make a distinction between employment created and activity generated in Victoria that would have occurred anyway even if the VIPP had not been in place.

## Auditor-General: financial statement June 2004 report

**Ms ROMANES** (Melbourne) — I take note of the report of the Auditor-General on the finances of the state of Victoria, 2003–04. In his analysis of the year ended 30 June 2004 the Auditor-General provides a clear audit opinion. The Bracks Labor government accepts that unqualified audit as evidence of its strong commitment to financial responsibility and accountability. The state reported a substantial operating surplus for the year. As the Auditor-General comments, it is a significant improvement on the previous year's result, around $990 million under the generally accepted accounting standards calculation method. The opposition got very excited about that, because it was higher than estimated, and it began dreaming up numerous ways in which to spend it. It demonstrates how profligate they would be if they were in office.

As we know, the Auditor-General draws attention to the fact that this improvement was mainly due to improvements in equity markets and investment revenues and the impact on superannuation costs. The returns from equity investment markets have improved substantially over the last financial year from an average of negative 7 per cent in 2002–03 to an average of 21 per cent in the year under review. We know that there are huge sums involved in these swings and roundabouts of the equity markets which affect important parts of the budget items such as superannuation and other matters.

The Auditor-General puts the view that in his opinion the annual financial report is a very high-standard document, and its credibility has been enhanced because it is prepared by applying the full range of Australian accounting standards. He, of course, draws attention to the fact that there are always opportunities for enhancement of information, but as we know, the annual financial report from the Victorian government is a very important opportunity to provide accountability to the Victorian people and disclose expenditure.

It is very interesting to see the Auditor-General comment on the various expenditure trends and highlight the level of subsidy and investment in public transport in the state following the public transport restructure. The total annual operating subsidy will increase, as a result of the renegotiated franchises, to around $654 million per annum between 2004–05, so those disclosures are an important part of the process.

As a member for Melbourne Province, with the Commonwealth Games village in my electorate, it is also very pleasing to see through the processes of the annual financial report and the Auditor-General's comments on this, the level of disclosure about expenditures in that area. Wild guesstimates of how much the government is putting into the games village

have been bandied about by various parties who are in opposition to the village being in Parkville.

The actual contributions in cash, the expectations for proceeds from subsequent property sales and the direct contributions into public housing and the environmental works that will occur on that site are clear for everyone to see. The Auditor-General puts very clearly that the state is in a good financial condition, and had an improved financial position in 2003–04.

## Phillip Island Nature Park: report 2003–04

**Hon. R. H. BOWDEN** (South Eastern) — I rise to make some comments about the Phillip Island Nature Park annual report for 2003–04. For many years the Phillip Island Nature Park has served the community well, and continues to do so. The penguins and the other assets of the nature park are well established and well regarded as tourist icons in Victoria. They are able to deliver very pleasant experiences to people who want to see penguins and koalas. It is well supported and a very positive experience. Hundreds of thousands of overseas visitors came to Victoria often with the specific purpose of attending the penguin parade. On page 17 of the report there is a very interesting statistic. In the report period 626 957 revenue visitors visited the park. It is hoped in the next few years we will see slightly higher growth. In the last comparative period the park saw an increase in visitation by domestic visitors of only 0.2 per cent. Many reasons could influence that, but I would like to see those numbers improve.

The activities of the Phillip Island Nature Park are extremely important not only to tourism but also to the economy of Phillip Island and the nearby region — for instance, out of the revenue of $8.3 million, $4.8 million was spent on employee benefits. That is very good for the economy of Phillip Island, for Victoria and the region itself. According to the report there are 52 full-time and 85 part-time employees. Those significant numbers are important and valuable to the prospects, employment and activities within Phillip Island and its nearby region.

I am a strong supporter of the Phillip Island Nature Park and its diverse activities. Phillip Island is not only known for the penguin parade. It also has the Koala Conservation Centre, which received 120 344 visitors, an increase of 1.1 per cent over the previous year. Churchill Island with 40 426 visitors in the stated period is also a significant tourist asset. The staff are dedicated and do a good job. Overall the management, the board, the employees and all the volunteers who support that group deserve our commendation.

There is a concern by those on Phillip Island, and it is now associated with the Phillip Island Nature Park, about the current situation at Seal Rocks. Some time ago the state government indicated to the community that the affairs at Seal Rocks would be under the guidance, direction and management of the Phillip Island Nature Park. I have no problem with that move — it is logical and sensible from a strategic point of view. However, it appears very clearly that there has been a lack of focus by the state government in particular on the future and the need to address significant problems with the Seal Rocks facility, where the community has spent more than $80 million in legal fees, compensation, construction and all sorts of things. We have today a derelict building. The Seal Rocks facility is totally unacceptable. It is partially dangerous and I urge the state government to come clean and make a statement. There have been constant delays. We need a statement on what is happening at Seal Rocks. I also insist that the coastal tourist road between the penguin parade and the Seal Rocks facility remain open.

## Rural and Regional Services and Development Committee: country football

**Hon. D. K. DRUM** (North Western) — I would like to speak on the inquiry into country football which has recently been completed by the Rural and Regional Services and Development Committee. As it is a sporting publication I will in fact start reading from the back, which one normally does. I am going to start with netball because the minority report which was compiled by the members for Portland and Swan Hill in the other place, Denis Napthine and Peter Walsh, goes straight to the point that netball should have been put into this inquiry but it was not.

> Netball and football are the very heart and soul of many communities in rural and regional Victoria.

That is very true. Netball is no longer the appendage just hanging off the end of football clubs right throughout Victoria. It is one of the two arms that make up the whole club. It really needs to be encouraged in any way possible. The minority report is very strong in calling for an exact amount of funds. It recommends that $20 million be injected by the state government. It is pertinent that we put over a dollar amount in the recommendation rather than broad recommendations which set an indefinable, insignificant or no amount. The minority report has put forward a recommendation for a $5 million injection of funds per year over four years. We certainly hope the government will go down that track rather than just a broad-based generic statement.

I would like to start with recommendation 9. It is a very sensible recommendation that umpires in the country and suburban football leagues be treated like players in relation to WorkCover schemes so that they are considered to be contestants or enthusiasts as opposed to being employees. That will make significant savings throughout the sporting organisations, and if we can get that instituted it will make a big difference — —

**Statements interrupted pursuant to sessional orders.**

## Extension of time

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

> That so much of sessional order 17 be suspended so as to permit an additional 13 minutes debate on the motion that reports and papers tabled in the Council be noted this day.

**Hon. ANDREA COOTE** (Monash) — I am not too happy about this at all. However, given the circumstances with the raising of points of order and because Mr Hall requires an opportunity to speak I will give leave. I want my unhappiness about this registered, because the time for statements on reports was hijacked by the government, which prolonged the debate. I am very angry about giving leave, but I will do so, so that Mr Hall can make his statement.

**Motion agreed to.**

**Statements resumed.**

**Hon. D. K. DRUM** (North Western) — Recommendations 11 and 12 deal with calling on the Australian Football League. We have to be careful about this one, because there are many recommendations within the report that call on the AFL to give more money to country football in Victoria. The reason I said we have to be careful is that the AFL has 16 clubs, many of them interstate, such as two in South Australia and two in Western Australia, so it is already running football interstate. The vast majority of its profit is already doing what the recommendations call on those country clubs to do. We cannot ask them to double-dip, so we have to make sure that when we call on the AFL to give more money we are actually calling on the Melbourne clubs to give more to country Victorian clubs. In doing so we have to realise that four or five of our Melbourne clubs are extremely vulnerable financially. We have to be careful if we think the AFL has an overgenerous role to play in the development of our game. The committee has put up these recommendations and we need to be very careful about them.

Recommendation 33 also goes to the AFL examining ways to strengthen links between AFL clubs in rural and regional areas so that the AFL can provide clubs and players in those areas with support, assistance and mentorship. It also suggests some sort of incentive, so we are going back to the days of drafting areas when the AFL clubs would get preferential draft picks for looking after the regions. Again, we have to be careful about doing this, because of the state of these AFL clubs. If you happened to be down in Gippsland and received the Essendon Football Club as your development area, that would be great, because Essendon has plenty of money and it would use its resources to develop that area so that it could get its preferential draft picks. But if you happened to draw a club like Melbourne, Footscray or Richmond at the moment, which are in financial difficulty, they are not going to have the finances to tip into those regions and develop the game on the chance of getting a preferential draft pick. So we have to be very careful about putting the development of the game anywhere near the AFL clubs. That is why we have to keep the AFL clubs at arm's length. Simply, they just want to win games and are not interested in developing the game as such.

There are many fine recommendations in the report, and I know many people in country Victoria are waiting with bated breath for it. They will be waiting just as eagerly for the government to hand down its response to the report. I urge the government to act quickly so that the finance that will become available can be accessed by the clubs in the coming year so that their planning for fundraising and so forth can be put into place as soon as possible.

## Southern Health: report 2003–04

**Mr PULLEN** (Higinbotham) — I want to speak on the annual report of Southern Health. I am sorry Mr David Davis is not here, so I will leave him alone. In fact, Mr Davis did not turn up to the annual meeting. I was a bit surprised that he did not, because I went to it and I thought that it should be — —

**An honourable member** — Why did you go?

**Mr PULLEN** — Because Southern Health covers part of my electorate.

**Hon. Andrea Coote** — On a point of order, Acting President, this should not be about the character assassination of David Davis who is not in here to defend himself. I ask you to call the member to refer to the report and get on with what is involved in the report rather than assassinating the character of a member who is not in the house.

**The ACTING PRESIDENT (Hon. J. G. Hilton)** — Order! I do not uphold the point of order, but I draw Mr Noel Pullen's attention to the fact that he is speaking on the report, and I encourage him to do so.

**Mr PULLEN** — Southern Health is the largest public health service in Victoria and provides comprehensive primary, secondary and tertiary health-care services to people living in the south-eastern suburbs of metropolitan Melbourne. Southern Health provides services to the southern, bayside and south-eastern suburbs of Melbourne, an area in excess of 2800 square kilometres and a population of over 730 000. In my electorate it covers the three cities of Bayside, Greater Dandenong and Kingston. Southern Health also provides specialist services to rural catchment areas including Gippsland. Southern Health services are provided from 16 hospitals and community health centres, including, in my electorate, the Monash Medical Centre in Moorabbin, and the Kingston Centre. Its services are also provided from other health service sites such as Central Bayside Community Health Service.

I want to refute a lot of the comments that have been made here this morning, in particular about health. This report covers it very well. It states:

> The demand for our services this year continued to grow during the year, and in response Southern Health delivered more high quality care than ever.
>
> Across our hospitals we provided 125 117 occasions of inpatient care, an increase of almost 4 per cent from last year. Our bed days now exceed half a million, with outpatient occasions of service exceeding 730 000.
>
> We treated 100 per cent of category 1 elective surgery patients within the prescribed 30 days, and have reduced the total number of people awaiting surgery.
>
> Within our emergency departments whilst demand increased, 100 per cent of category 1 patients received immediate attention.
>
> A patient satisfaction survey conducted by the Department of Human Services showed that 95 per cent of patients were satisfied with services at Monash Medical Centre. In the same survey 94 per cent were satisfied with services provided at Dandenong Hospital.

I use the opening comments of the chair of the Southern Health, Peter Maloney, where he says:

> The last year was a challenging time for Southern Health. We were faced with unprecedented demand for our services and a resultant increase in costs.

That has been spoken about.

> Whilst we worked hard to achieve both quality improvements and efficiencies in many areas, overall we were spending at a rate higher than our funding. It is pleasing that the Victorian government has recognised this increase in costs and has committed additional funding in the new financial year.

Highlights included the completion of the 229-bed Casey Hospital in October of this year. Some of the new issues were the new facilities at Moorabbin, which were opened by the Minister for Health in the other place, the Honourable Bronwyn Pike, when she announced a $3 million upgrade to the Monash Medical Centre's Moorabbin campus.

Another very important issue was the Dandenong after-hours general practitioner clinic. When it opened in October 2003, it was treating about 50 people — and this is the after-hours clinic — and by June 2004 it was treating over 400 people. It just goes to show what a wonderful initiative it is. This is a very large report, and it is a very good report. Only in this week's paper — —

**Hon. Andrea Coote** interjected.

**Mr PULLEN** — I take offence at the Deputy Leader of the Opposition interjecting. I was in no way going to assassinate Mr Davis. I said I would not when he was not in the chamber. What I was saying quite clearly was that I was going to refute some of the things he said.

An important thing to remember is that health and aged care budgets have increased by over 50 per cent since we came to office five years ago — from $5 billion in 1999 to $7.7 billion in 2004 — so we can treat more patients. We have set up the elective surgery access scheme, and 2000 people have been treated — —

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

## Rural and Regional Services and Development Committee: country football

**Hon. P. R. HALL** (Gippsland) — I want to make a statement on the Rural and Regional Services and Development Committee report on its inquiry into country football. At the outset I want to thank the Leader of the Government and the Deputy Leader of the Opposition for their courtesy in extending the time to enable me to make this statement this morning. When I put this report notice on the notice paper yesterday, one of the members of this committee, Robert Mitchell, interjected and asked whether I was going to 'bag the committee'. The answer to that question is no, I am not going to bag the committee. I think parliamentary committees work with a lot of

goodwill between all members in trying to tackle what is sometimes a difficult task, and I do not underestimate the difficult job this particular committee had in addressing the terms of reference of this inquiry. I would have loved to have been on that committee because of my interest in sport, particularly football. When I looked through the list of those who made submissions to the committee, I seemed to know many of the people.

Some 34 recommendations are made. While I do not think some are enforceable and therefore lack a bit of strength, I think others are very useful and may help the future of country football. I note also that the report contains minority reports, which is not always a desirable outcome. However, even those minority reports do not have greatly diverging views — they are more specific in their nature rather than open ended.

There is one point, however, where I agree with the minority report. It concerns the framing of the terms of reference and the need, which was considered by the authors of the minority report, to specifically include netball along with football. That would have made for a much better inquiry, because I have come to acknowledge that netball is integral to the sustainability of football clubs, at least in country Victoria. In support of that, I think the comments of Kate Palmer, the chief executive officer of Netball Victoria on page 48 are very instructive. I would go so far as to say that without the integration of males and females in a sporting club, the future of stand-alone football clubs is not bright. I am talking about the integration of females in a meaningful way, not a tokenistic way, as they may have been in the past.

I recall visiting the Omeo football and netball club on the Thursday night prior to the grand final this year. While the blokes were out there training, the netball girls were inside the rooms celebrating, because they had won their grand final the year before. The strength of a club like the Omeo one, in a relatively sparsely populated area of the state, is great. That club has a strong future, because it has integrated both male and female sports well. Some of the comments in the report acknowledge this. Even though netball was not specifically included in the terms of reference, some of the comments throughout the report support the fact that the future of football is very much reliant on a strong association with netball.

I was also interested to read a part of the report entitled 'Social interaction'. It is my view that sport is the greatest social leveller. It brings people back to the same level, no matter what their colour, religion or standing in the community is, and as somebody who was involved in football for the best part of 20 years, I have always made the comment that after training underneath the showers, there is a lawyer and there is a bricklayer standing alongside each other and you cannot tell the difference in any way at all. In that regard I think it brings people back to the same level. They wear the same uniform as they enter the ground — whether it be women's or men's sport — so it eases the social divide that could otherwise exist.

Recommendations 12 and 33 are also interesting. They relate back to the Australian Football League clubs developing particular associations with leagues in country Victoria, and as my colleague the Honourable Damian Drum suggested, then we were going back towards the days of zoning in some respects. I was part of that zoning process when I played league football, and I think there were some strong benefits in having an alliance between country leagues and particular AFL clubs. So in that regard I think there is some sense in looking further into that recommendation.

Recommendation 11 mentions Auskick. I want to conclude, before my time is over, by making mention of Auskick, because I think it is one of the best programs around to encourage young boys and girls into the game of football. I know in recent years I have attended Auskick sessions with my nine-year-old nephew. I have enjoyed them very much, and I know the kids themselves get a great deal out of them. That is a program that should go on and be encouraged.

**Question agreed to.**

## LEGAL PROFESSION BILL

*Second reading*

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

**Hon. M. R. THOMSON** (Minister for Small Business) — I move:

That the bill be now read a second time.

As the principal source of legal assistance the legal profession plays an important role in the way that justice and the rule of law are delivered and perceived. The independence of the legal profession and the freedom to advise and represent its clients supports the independence of the courts and is essential for a fair and effective justice system. This bill recognises the importance of lawyers and will enhance the role they play in the community.

Earlier this year the government announced new directions for the Victorian justice system to provide a map of where we are going over the next 10 years. The justice statement outlined the proposed changes to the regulatory structures in place in Victoria for the legal profession and the concurrent development of model laws through textual uniformity in legislation where appropriate and the adoption of consistent national standards in other areas.

The national reforms contained in this bill come out of the national legal profession project sponsored by the Standing Committee of Attorneys-General (SCAG). This major initiative has been driven by the continuing evolution of a national and international legal services market and will establish a regulatory framework that removes state and territory barriers while meeting the needs of the profession and protecting the interests of consumers.

I would first like to focus on the changes to the regulatory framework before moving onto the national reforms.

**The new regulatory framework**

There are a number of weaknesses within the current regulatory framework, and impetus for change has arisen from these. There is currently considerable duplication of functions between the various bodies involved in the regulation of the legal profession. This duplication has added unnecessary costs to the administration of the regulatory framework. The current system has also proven confusing for consumers due to the number of entry points for complaints.

This bill will abolish the Legal Practice Board, the Office of the Legal Ombudsman and the Legal Profession Tribunal and replace it with a new regulatory framework that avoids duplication of functions and streamlines the complaints process.

**The Legal Services Board**

The new regulatory framework is dealt with in chapter 6 of the bill. The bill establishes the Legal Services Board as the peak regulatory body of the legal profession. The board will be accountable for administering the funding for the bodies within the system, policy setting, and all non-disciplinary functions in the system.

The board will have responsibility for the following key functions:

making legal profession rules;

approval of legal profession rules developed by the Law Institute of Victoria or the Victorian bar;

trust account administration, including approval of authorised deposit-taking institutions, monitoring of statutory deposits and investigations;

management of the Fidelity Fund and investigation and determination of claims against the fund;

administration of practising certificates and management of the register of practitioners;

appointment of supervisors, managers and making applications for the appointment of receivers;

approval of professional indemnity insurance policies and appointment of members of the Legal Practitioners' Liability Committee;

dealing with criminal breaches of the act (as opposed to disciplinary breaches).

The board will be broadly representative, with a membership consisting of consumer and legal practitioner representatives and experts in financial management.

**The legal services commissioner**

The bill establishes the legal services commissioner. The main function of the commissioner is to receive and deal with complaints about the legal profession. This includes complaints about a legal practitioner's conduct that, if established, would amount to unsatisfactory professional conduct or professional misconduct. It also includes complaints that involve civil disputes up to $25 000. A civil dispute can be a dispute about the amount that has been charged by a legal practitioner or law practice or a dispute about financial loss as a result of the provision of legal services.

In this role, the commissioner is independent from the Legal Services Board.

The commissioner will also be the chief executive officer of the Legal Services Board and in this role will be responsible for allocating resources for the board's functions. The commissioner must administer the affairs of the board in accordance with the policies and directions of the board.

**Delegations**

The bill provides that both the commissioner and the board are able to delegate functions where considered appropriate to do so. However, the bill does specify that certain functions cannot be delegated. This ensures that the commissioner and board will carry out the key functions of their roles in the new system. Where a function can be delegated the delegation must be in writing, and all delegations must be audited once a year to determine whether a delegation is still appropriate. Both the commissioner and the board are required to list delegations in their respective annual reports.

**Legal practice list within the Victorian Civil and Administrative Tribunal (VCAT)**

The bill transfers the key functions of the current Legal Profession Tribunal to a separate list of VCAT. Amongst other things, VCAT will have jurisdiction to deal with:

applications by the legal services commissioner for the tribunal to make an order on the basis that it is satisfied that a practitioner is guilty of unsatisfactory professional conduct or professional misconduct;

civil disputes that do not exceed $25 000 that the commissioner has not been able to resolve;

applications to set aside costs agreements that are not fair, just or reasonable; and

reviews of certain decisions made by the Legal Services Board.

**Professional associations**

In the past, professional associations such as the Law Institute of Victoria and the Victorian Bar Council were traditionally given responsibility for the regulation of the legal profession. However, the past decade has seen a move away from self-regulation, to increasing the independence and accountability of regulators. The new bill continues this move by ensuring that the vast majority of regulatory functions will now rest with the new Legal Services Board and commissioner, which are independent statutory authorities.

However, both the law institute and the bar will continue as vibrant membership bodies, involved in maintaining and raising professional standards and making a valued contribution to issues that affect the wider community. Part of this role will be achieved through their responsibility for the development of the legal profession rules which are subject to the board's approval. The board and the commissioner may also choose to delegate and refer particular functions to the professional associations in order to draw on their extensive knowledge and expertise in various aspects of regulation.

**Funding arrangements**

*Current funding arrangements*

Currently, the Legal Practice Board administers three funds:

the Legal Practice Fund, which funds the regulation performed by the recognised professional associations. Its funds are principally drawn from practising certificate fees;

the Fidelity Fund, which is to compensate clients for defalcations committed by legal practitioners. The Fidelity Fund is largely comprised of compulsory contributions and special levies from legal practitioners; and

the Public Purpose Fund, which contains several accounts through which funding is directed to the various regulatory bodies as well as to Victoria Legal Aid, the Victoria Law Foundation, the Leo Cussen Institute, the Victorian Law Reform Commission and other law reform projects. The primary source of funds in the Public Purpose Fund is interest on clients' funds in trust accounts.

These funding arrangements have proven to be administratively complicated and inefficient. This bill simplifies these arrangements.

*The new funding arrangements*

There will now be only two funds: the Fidelity Fund and the Public Purpose Fund. Under the bill, the board must establish three accounts in the Public Purpose Fund:

the existing general account, covering the general operating expenses of the regulatory scheme;

the existing statutory deposit account, for the receipt and repayment under statutory deposits arrangements; and

a new distribution account, for the funding of legal aid, law reform, legal education, legal research and other appropriate purposes.

This is a much simpler arrangement. The Public Purpose Fund used to have six mandatory accounts. The other current accounts in the Public Purpose Fund will be abolished, with their purposes accommodated and managed as part of the general account.

*Funding of legal aid, law reform, legal education and legal research — the distribution account*

Funding of legal aid, law reform, legal education and legal research is extremely important, and the bill continues to recognise this. Unlike the current act, which specifies the organisations that can share in the distribution of funds remaining after accounting for the liabilities and expenses of the regulatory scheme, the bill provides for the distribution of funds for Victoria Legal Aid and for nominated purposes. The nominated purposes are law reform, legal education, legal research and other purposes relating to the legal profession or the law. A distribution account will be established to receive 50 per cent of the amount standing to the credit of the general account as at 30 June. Up to 35 per cent of the amount standing to the credit of the general account as at 30 June will be paid to the Legal Aid Fund each year. This is an increase from the current provision of 30 per cent. Up to 15 per cent of the amount standing to the credit of the general account as at 30 June will be used for law reform, legal education, legal research and the other nominated purposes.

This is a modern, purposive approach to funding that will meet whatever new requirements emerge in an environment in which community expectations are changing.

**A national legal profession**

A number of earlier reforms to the traditional regulatory approaches in the various jurisdictions have already made progress towards overcoming barriers to national legal practice. Both governments and the legal profession have driven these reforms.

The SCAG national legal profession project has considered how improvements could be made to harmonise legal profession regulation and further reduce barriers to national practice. The focus of the project is on the administrative aspects of legal profession regulation — the operational obligations of lawyers — rather than local regulatory structures or funding arrangements. The operational matters covered by the national model provisions (the model) are:

reservation of legal work and legal titles;

admission of legal practitioners;

legal practice;

interjurisdictional issues;

suitability reports;

trust money and trust accounts;

costs disclosure and review;

fidelity cover;

professional indemnity insurance;

complaints and discipline;

external intervention;

incorporated legal practice and multidisciplinary partnerships;

foreign lawyers; and

associated provisions dealing with investigatory powers, legal profession rules and other miscellaneous matters.

The model represents the bulk of this bill and I will address each of these topics in turn as I provide an overview of the bill.

**Reservation of legal work and legal titles**

Reservation of legal work and legal titles is dealt with in part 2 of chapter 2 of the bill. This part deals with the reservation of particular titles to legal practitioners and the reservation of legal work in favour of legal practitioners. Why is reservation of titles and legal work important? Because consumers must be able to identify whether the person who is providing legal services to them is entitled to do so. Consumers must also be able to identify, by reference to a common standard, which areas of work can only be performed by a practitioner. As a result, a uniform national approach has been taken in relation to identifying the work that is reserved to legal practitioners and the titles used by them. Inconsistent reservation of titles and legal work presents a barrier to interjurisdictional practice.

This part contains a blanket prohibition on engaging in legal practice unless the person has relevant academic qualifications and legal training, including the requirements that the person be admitted to legal practice in Australia and hold a practising certificate. It is intended that the general standard across jurisdictions will give rise to common jurisprudence on what it means to 'engage in legal practice'. There will also be a general prohibition on a person representing or advertising him or herself to be entitled to engage in legal practice. This broad approach is considered better than simply prohibiting specific titles. There are of course specific exemptions to this prohibition, which are also covered in this part.

**Admission of legal practitioners**

Admission of local practitioners is dealt with in part 3 of chapter 2 of the bill. The objectives of this part are to allow for recognition of agreed minimum standards for academic and practical legal training before admission and recognition of academic courses and practical legal training which have been approved in another jurisdiction.

Currently the rules for admission of legal practitioners are not uniform across states and territories. Although there are principles of mutual recognition, there may be some concern if admission requirements in other jurisdictions are not of a consistently high standard. It can also lead to forum shopping by those people intending to become admitted.

The model provisions aim to facilitate national practice by trying to ensure uniformity in admission standards and that those standards are consistently high across jurisdictions. Another significant achievement of this part is that a lawyer who is admitted in any state or territory of Australia is now entitled to practise in any other jurisdiction without having to go through the process of admission once again.

The interjurisdictional provisions will allow for information sharing between the regulatory bodies of each state and territory. This will increase administrative efficiency and ensure that the consumers of legal services are the ultimate winners. For example, where a practitioner is removed from the roll of practitioners in another jurisdiction, there will be automatic removal from the Victorian roll as a result.

Apart from the measures I have just described to you, the current procedure for admission in Victoria will not be substantially changed. The government is committed to an extensive analysis of the admission procedure and the myriad of options available to law students and graduates as part of its second stage review of the Legal Practice Act.

**Practice of legal practitioners**

Legal practice by Australian legal practitioners and the practising certificate regime is dealt with in part 4 of chapter 2 of the bill. This part will introduce the groundbreaking new concept of the national practising certificate. It will mean that all legal practitioners who are required to hold practising certificates will be required to hold a practising certificate from his or her principal place of practice. However, once this requirement has been satisfied, the practitioner is entitled to practise across jurisdictions — provided they meet any requirements imposed by the relevant regulatory body. This is a real breakthrough in terms of facilitating national practice and will promote practitioners moving across jurisdictions freely and with little restriction.

Practitioners who hold interstate practising certificates will have to comply with less administrative burden upon practising in Victoria, which will encourage practitioners to establish an office in Victoria. However, the Legal Services Board will be responsible for administering a strict system of issue, renewal and regulation. Where decisions about a practitioner's right to practise are made, a practitioner will be given the opportunity to respond to action being proposed against them — a 'show cause' opportunity which affords natural justice. A practitioner will have a right of review from decisions of the board to VCAT.

In addition, a new provision will be introduced in Victoria, to bring it into line with other states and territories, which requires all newly admitted legal practitioners to be supervised for a period of 18 months (if the practitioner has completed articles of clerkship) or 2 years in the case of all other practical legal training.

**Suitability reports**

The model allows each jurisdiction to provide for suitability reports.

Part 5 of chapter 2 of the bill deals with suitability reports. The bill provides the board with power to obtain suitability reports in specified circumstances. This will allow the board to obtain a criminal record check where it forms the belief that a local legal practitioner has a criminal conviction that makes him or her unsuitable to practise. It will also allow the board to require an applicant for a practising certificate or the holder of a practising certificate to undergo a health assessment where the board believes they may have a mental infirmity that may make the person unsuitable to practise. Mental infirmity is defined to include alcoholism and drug dependency.

**Interjurisdictional provisions — admission and practice**

Part 6 of chapter 2 contains interjurisdictional provisions regarding admission and practising certificates. The model provides uniform provisions which facilitate the sharing of information between regulatory bodies in each jurisdiction in relation to applications for admission to practise, removals from the roll of practitioners and decisions affecting practising certificates.

In addition, positive obligations are placed on practitioners to notify authorities of matters that affect their right to practise, whether in another Australian jurisdiction or a foreign country. Once notified, the provisions enable local regulatory bodies to take action to limit a practitioner's ability to practise in accordance with the actions taken in the original jurisdiction. These provisions will ensure increased administrative efficiency across jurisdictions and ensure that practitioners cannot seek to flee to other jurisdictions to escape disciplinary action in their home state.

**Incorporated legal practices and multidisciplinary partnerships**

Incorporated legal practices (ILPs) and multidisciplinary partnerships (MDPs) are dealt with in part 7 of chapter 2 of the bill. The model requires the adoption of a number of core uniform provisions in relation to these entities.

The incorporation of legal practices represents a significant departure from traditional modes of legal practice in Victoria. Removing restrictions on ownership and profit sharing is a key means of enabling legal practices to raise capital for expansion to facilitate competition in domestic and international markets. In addition, it will allow legal practitioners to compete with other service providers, such as banks and retailers.

The new form of incorporated legal practice that will be available to legal practitioners in Victoria will require a corporation that engages in legal practice to have at least one lawyer director who will be responsible for the legal services provided. It will no longer be a requirement that all directors and shareholders must be lawyers, opening the way for corporations to provide multidisciplinary services. Such a 'one stop shop' is intended to increase competition and efficiency, thereby reducing costs for consumers.

The fundamental tenet of the model is that the focus of regulation will be on compliance by individual legal practitioners with their ethical and professional duties within the new business structure.

**Foreign lawyers**

Part 8 of chapter 2 deals with legal practice by foreign lawyers. The aim of this chapter is to facilitate the 'internationalisation' of legal services. It intends that the practice of foreign law both here in Victoria and interstate be a recognised and regulated part of legal practice.

The model provides for the practice of foreign law by foreign lawyers to be permitted across jurisdictions on a consistent basis. However, foreign lawyers will be required to register in only one Australian jurisdiction (rather than each jurisdiction in which they practise), which will entitle them to practise foreign law anywhere in Australia. This part provides that the ethical and professional standards which apply to Australian legal practitioners also apply to foreign lawyers, as well as the trust account obligations. The provisions of this part aim to encourage the proliferation of the international legal services market, and together with the introduction of incorporated legal practices and multidisciplinary practices, will bring Victoria to the forefront of the legal services industry.

**Community legal centres**

Part 9 of chapter 2 deals with the regulation of community legal centres (CLCs). CLCs are an invaluable part of the legal services community, and offer not-for-profit legal aid and assistance to the disadvantaged and most vulnerable of our society. To this end, it is vitally important that those who work and volunteer at CLCs are subject to the same level of regulation and accountability as other legal practitioners.

A new, separate part of the bill dealing with CLCs has been introduced for this reason. It will ensure that CLCs come within the broader regulatory framework, and make it easier for them to operate within the legal services sector. The ultimate beneficiary will be consumers of legal services, because regulation of CLCs can only mean increasing access to justice and delivery of legal services to those who are most in need.

A new requirement of this part will be that those people who volunteer at CLCs will be required to hold practising certificates if they do not already hold one. This will mean that volunteers are subject to the same standard of accountability as other lawyers who hold practising certificates. And it will also mean that consumers of legal services can easily identify those who are providing services to them.

**Manner of legal practice**

Part 2 of chapter 3 deals with the manner of legal practice in Victoria. This part deals with matters not covered by the model. This part provides for such matters as co-advocacy and client access. It also carries over provisions contained in the Legal Practice Act 1996 prohibiting compulsory clerking and compulsory chambers. This part also sets out the rule-making powers of the board and the professional associations. The Legal Services Board will have the power to make legal profession rules that cover Australian legal practitioners following consultation with the professional associations. The Law Institute and Bar may also make legal professional rules subject to the approval of the board. The board is responsible for public notice and consultation in respect of any rule it wants to make or approve.

**Trust money and trust accounts**

Trust money and trust accounts are dealt with in part 3 of chapter 3. The model requires the adoption of core uniform provisions by all jurisdictions in relation to the general principles for the establishment and maintenance of trust accounts and the treatment of trust money by lawyers.

A legal practitioner will be required to open a trust account in each jurisdiction in which he or she has an office and receives trust money. Therefore, a law practice that operates in a number of jurisdictions will be obliged, under the law of each jurisdiction, to open a trust account in each of those jurisdictions in which trust money is received.

The requirements for the external examination of trust accounts and investigations are based on the current arrangements in place under the Legal Practice Act 1996. The

model requires the adoption of about 60 strict liability offences relating to the trust money and trust account requirements. This compares to approximately six offence provisions in the current act relating to trust accounts. The approach taken by the model, and reflected in the bill, can be characterised as 'prevention and compliance'.

The bill also continues to require practitioners to deposit trust account funds in a special statutory deposit account, for the purposes of obtaining funding from the interest earned.

**Costs disclosures and review**

Costs disclosure and review is dealt with in part 4 of chapter 3 of the bill. All jurisdictions are required to adopt uniform provisions in relation to arrangements for legal costs and disclosures of legal costs by legal practitioners to their clients.

In addition, the bill provides for no-win, no-fee agreements (referred to in the bill as conditional costs agreements). Uplift fees will also be permitted in relation to conditional costs agreements. Additional disclosures must be made in relation to conditional costs agreements and where a matter involves litigation the premium must not exceed 25 per cent. However, as is currently the case, contingency agreements (in which a practitioner becomes entitled to a proportion of the amount recovered by a client) will be prohibited.

**Professional indemnity insurance**

Professional indemnity insurance is dealt with in part 5 of chapter 3 of the bill.

The bill does not substantially alter the current arrangements in relation to professional indemnity insurance for legal practitioners who are not barristers.

In relation to barristers, the bill provides that a barrister may choose to apply for insurance with the Legal Practitioners Liability Committee. The committee may choose to refuse or provide the insurance. The bill also provides that the insurance for a barrister must be with the Legal Practitioners Liability Committee if the Victorian Bar Council resolves on or before 28 February 2005 that barristers are required to insure with the committee. If barristers are not required to insure with the liability committee (because no resolution has been made), the insurance must be on terms and conditions approved by the board.

The bill also extends the provisions in relation to professional indemnity insurance to cover the new business structures allowed for under the model, namely multidisciplinary partnerships and incorporated legal practices. While the bill now specifically refers to community legal centres, the provisions do not change the current insurance arrangements for these organisations.

It is noted that ministers and the legal profession have not yet reached agreement on a national approach to professional indemnity insurance. Development will continue of a scheme relating to professional indemnity insurance that will facilitate interstate practice. In the interim, there will be jurisdictional variation relating to insurance requirements.

**Fidelity cover**

Fidelity cover is dealt with in part 6 of chapter 3 of the bill. Fidelity cover is provided in all Australian jurisdictions as a form of insurance in respect of the amounts held by legal practitioners in their trust accounts. A practitioner who commits a 'defalcation' (i.e., takes money from the trust account without authorisation) is insured by the Fidelity Fund, entitling the person who was entitled to the money to make a claim against the Fidelity Fund.

Under the bill, a legal practitioner will continue to be covered by the Fidelity Fund here in Victoria. He or she will contribute only to this fund, and will be covered only by that fund, regardless of where a default may occur. The only exception to this will be where the practitioner is authorised to withdraw trust account money from an account in another jurisdiction. In that case, in order to allow each fund to ensure it is able to meet its liabilities, the practitioner can be required to contribute to the Fidelity Fund in that other jurisdiction (as determined by that fund), and will be covered by the other jurisdiction's Fidelity Fund. Under the bill, the consumer benefits delivered by the fund and the process of claim will be harmonised so that clients do not have different rights in different jurisdictions.

**Complaints and discipline**

Complaints about the legal profession are dealt with in chapter 4 of the bill.

Under the model, there was no intention to introduce a nationally uniform process for dealing with complaints. The model does, however, require jurisdictions to implement a number of core provisions in relation to disciplinary complaints. That is, complaints that a practitioner's conduct amounts to unsatisfactory professional conduct or professional misconduct. This bill incorporates those core provisions of the model but continues to make a distinction between disciplinary complaints and civil disputes, as is the case under the current act.

The bill provides that a person can make a complaint to the legal services commissioner that involves a civil dispute or a disciplinary complaint or both. The commissioner cannot delegate the responsibility for receiving these complaints under the bill.

**Civil disputes**

The bill provides that the commissioner can deal with a dispute about the amount that has been charged by a legal practitioner or law practice, or a dispute about financial loss as a result of the provision of legal services, where the amount in dispute does not exceed $25 000.

The bill provides that a civil dispute is generally to be dealt with in two stages. In the first stage, the commissioner will attempt to resolve the dispute between the parties by alternative dispute resolution. The commissioner may take any action he or she considers necessary to assist the parties to reach agreement. Action may include, but is not limited to, the referral of the dispute for mediation or, in the case of a dispute about the legal costs that have been charged, making an arrangement for an assessment of the legal costs.

If the attempts to resolve a civil complaint are unsuccessful, the second stage allows a party to the complaint to apply to VCAT for hearing and final determination. As part of determining a civil dispute, the tribunal may make orders for compensation or the payment of costs, amongst other things. The parties to a civil dispute before the tribunal will usually be the complainant and the law practice or practitioner.

**Disciplinary complaints**

The bill provides that disciplinary complaints are also commenced with the commissioner and are generally dealt with in two stages. In the first stage, the commissioner will investigate a complaint about a legal practitioner's conduct or refer the investigation to a prescribed investigatory body. After an investigation, if the commissioner is satisfied that there is a reasonable likelihood that the tribunal would find the practitioner guilty of professional misconduct, the commissioner must make an application to VCAT for an order to be made in relation to that conduct. If the commissioner is satisfied that there is a reasonable likelihood that the tribunal would find the practitioner guilty of unsatisfactory professional conduct, the commissioner may make an application to VCAT or take other action, such as reprimanding the practitioner.

Where an application is made to VCAT, and the tribunal finds the practitioner guilty of professional misconduct or unsatisfactory professional conduct, the tribunal may impose various penalties. The parties to a disciplinary complaint before the tribunal will usually be the commissioner and the legal practitioner concerned.

**External intervention**

External intervention is dealt with in chapter 5 of the bill. The model requires the adoption of uniform provisions in relation to the appointment of supervisors, managers and receivers of practitioners' trust accounts (collectively described as 'external intervention'). The provisions in the bill set out the circumstances in which external intervention is warranted, how external interveners may be appointed, and the different roles and responsibilities of supervisors, managers and receivers.

In the bill, it is the board that is responsible for determining that a form of external intervention is warranted. The board may determine to appoint a supervisor, a manager or to apply to the Supreme Court for the appointment of a receiver. The board is not able to delegate this function.

A manager must be a legal practitioner who holds a practising certificate as a principal who is authorised to receive trust money. Any person appointed as a supervisor or receiver, and who is a legal practitioner, must also hold a practising certificate as a principal who is authorised to receive trust money. Supervisors, managers and receivers must deal with trust money in the same way as a law practice must deal with trust money.

The bill also provides for both specific and general reporting requirements for a supervisor, manager and receiver. This is a mechanism that provides further protection for trust money during an intervention.

**Process for implementing the national model**

In July 2004, SCAG ministers signed a memorandum of understanding (MOU) for the implementation of the model across jurisdictions. The MOU requires jurisdictions to use their best endeavours to introduce legislation giving effect to the model. Where provisions have been designated as 'core uniform', they should be adopted in the same terms as the model. Where jurisdictions want to amend a core provision, or make legislation that will change the substance of a core provision, this should be done in consultation with the national legal profession working party.

A number of core uniform provisions in the model have been identified during the consultation process as problematic, although not critical to the operation of the legislation. In accordance with the MOU, these provisions have been referred to the working party for further consideration. As part of this process, it is understood that some flexibility will be required in the implementation of the model, as it will take time to work through referrals back to the working party from Victoria and other jurisdictions. It is highly likely that over the next few years there will be a number of amending bills necessary to accommodate changes to the model as problems and issues are detected by the various states and territories as they implement the model.

**Other matters**

The bill also contains provisions relating to the regulation of conveyancing businesses, evidentiary matters powers and other miscellaneous matters.

**A proposed review of the provision of legal education services in the regulatory environment**

Once the regulatory system established by this bill comes into operation our focus will turn to the provision of legal education services. The provision of these services throughout the entire regulatory system needs to be reviewed to assess the effectiveness of the various education programs and determine whether these should continue to be funded from the regulatory system and which bodies should provide these services. It is proposed that a review of these services will be commissioned. Part of this review will include an analysis of the current procedure for admission and whether it can be enhanced or improved in any way. This will be a substantial task and is likely to involve stakeholders with a view to forming an holistic approach to graduate, postgraduate and professional legal education.

**Conclusion**

The government is pleased that the bill is able to deliver one of the many reforms set out in the justice statement. While it is unclear just how far and how quickly the market for legal services will change over the next decade, the government is confident that the proposed regulatory overhaul and more flexible business structures will ensure that the profession is well positioned to take advantage of new opportunities to offer a greater range of services to all Victorians.

As Robert F. Kennedy once said:

> Just because we cannot see clearly the end of the road, that is no reason for not setting out on the essential journey. On the contrary, great change dominates the world, and unless we move with change we will become its victims.

I commend the bill to the house.

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

**Debate adjourned until next day.**

## CHILDREN AND YOUNG PERSONS (KOORI COURT) BILL

*Second reading*

**Debate resumed from 1 December; motion of Mr GAVIN JENNINGS (Minister for Aboriginal Affairs).**

**Ms HADDEN** (Ballarat) — I rise to speak in support of the Children and Young Persons (Koori Court) Bill. It is a very important bill and one that I have looked forward to being presented to the Parliament. This bill establishes a children's Koori court in this state — a criminal division only.

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

**Quorum formed.**

**Ms HADDEN** — The purpose of the Koori court bill, which I will abbreviate it as, is to establish a Koori court (criminal division) in Victoria within the Children's Court and provide for the jurisdiction of procedure of the division with the objective of ensuring greater participation of young indigenous people within the state and within the criminal division of the Children's Court. The purpose is to assist in achieving more culturally and appropriately sentencing of Aboriginal people in this state. The children's Koori court bill is similar to the Koori court division of the Magistrates Court in this state. The definitions — I will not define them but only refer to them — in the bill are 'Aboriginal elder or respected person' and 'family member'. Those are definitions and descriptions of Aboriginal elders already operating within the Koori courts in this state.

The bill most importantly recognises that indigenous children and young people are still overrepresented in the criminal justice system in Victoria and the statistics are quite alarming. I think it is very sad that this is the state of play and it needs to be addressed. It must be addressed in partnership especially with the indigenous elders and the indigenous community because they have an intimate understanding of their young people and how they can turn them around within the process of the legal system.

The objective of the bill is to ensure greater participation of the Aboriginal community in the sentencing process of its own young people and to achieve, as I said, more culturally appropriate and sensitive sentencing for young Aboriginal people. The children's Koori court is a pilot. It will be evaluated to determine whether it has been successful, and if it is successful it is anticipated to be extended to other locations around Victoria. I have no doubt that it will be, and that is based on my personal experience of Koori courts in other states — especially the Anunga adult court in South Australia — which are all very successful. The three adult Koori courts established in this state in the last two years at Warrnambool, Broadmeadows and Shepparton also continue to be successful in turning the indigenous population away from the criminal justice system. I have no doubt therefore that this court will be successful and I anticipate that that is the view of most of us in this chamber.

There are some alarming statistics which I would like to mention. Whilst the Attorney-General has in his second-reading speech referred to some statistics, it is to be noted that Koori youth are approximately 16 times more likely to be in juvenile detention than non-indigenous young people. That is horrifying. Also, the recidivism rates are much higher with indigenous juveniles; and the statistics suggest that it is 65 per cent recidivism for indigenous juveniles compared with 47 per cent for non-indigenous juveniles. The parliamentary Law Reform Committee in its 2001 review of legal services in rural and regional Victoria spent some time visiting Aboriginal communities right across the state. I have been a member of that committee since 1999 — —

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

**Quorum formed.**

**Hon. Andrea Coote** interjected.

**Ms HADDEN** — I keep losing seconds from my allocated time, which is concerning me, Mrs Coote.

In relation to the statistics, the Victorian parliamentary Law Reform Committee of which I have been a member for five years spent some time visiting Aboriginal communities in 2000–01. The committee noted then the particular needs of the Aboriginal community in rural and regional Victoria who are significantly overrepresented in the criminal justice system.

As I have said in this chamber recently, the government is to be commended for acting on a number of the Law Reform Committee's recommendations in that report by establishing courts in country areas, as we recommended. Chapter 6 in the *Review of Legal Services in Rural and Regional Victoria* report of 2001 deals with the instance of indigenous Victorians

involved in the criminal justice system. That report notes the 1996 national census data that:

> The Aboriginal community makes up about 0.5 per cent of the total Victorian population.
>
> Fifty per cent of Victorian Aboriginal people live outside the metropolitan area.
>
> The Aboriginal population is much younger than the overall population with 1996 census data showing that 57 per cent of Victorian Aboriginal people are under the age of 25 compared with 39 per cent of the overall population.
>
> ...
>
> The unemployment rate for Aboriginal people in Victoria is 21.4 per cent with evidence that this rate is significantly higher in rural areas.
>
> Young Aboriginal men in Victoria have a life expectancy of 18 years less than the state average.
>
> Aboriginal people in Victoria are significantly overrepresented in prisons. Adults are 11.5 times more likely than non-Aboriginal people to be placed in prison and juveniles are 14.5 times more likely to be placed in juvenile custodial facilities.

The committee noted then that for juveniles, this overrepresentation rate had reduced from a 1991 census figure of 38 times more likely.

The *Koori Justice Update* edition no. 4 sets out some very alarming statistics, too. It notes that:

> At June 30, 2002, indigenous juveniles were in detention in Victoria at a rate 14 times higher than non-indigenous juveniles.

The statistics are taken from 'Statistics on Juvenile Detention in Australia: 1981–2002' issued by the Australian Institute of Criminology. It also notes that:

> At June 30, 2002, indigenous adults were in Victoria's prisons at a rate 12 times higher than non-indigenous adults.

A recent report from a paper presented at the Eighth Aboriginal Justice Forum, Indigenous Issues Unit, showed that a Koori person:

> ... who had not completed school was 257 times more likely to be imprisoned than a non-Koori who had completed school.

I think all the statistics show that we certainly need to turn our thinking to how we deal with young Koori offenders in our justice system. This bill proposes to go down that path and turn around the situation of young indigenous Aboriginal children.

Importantly, the Koori court can only deal with an Aboriginal young person if the child is Aboriginal, if the offence falls within the jurisdiction of the Children's Court — other than a sexual offence; and I note that — and if the child intends to plead guilty or has pleaded guilty or has been found guilty of the offence, and the child consents to the proceedings being dealt with by the Koori court.

This is important because as with the adult Koori courts, the offender has the choice of being dealt with within the Koori court or within the ordinary criminal division of the court. The indigenous person often decides actually to go within the mainstream criminal division. It is sometimes thought that that is an easier option than having to face not only the magistrate but the elders within the court setting. That is intimidating and it requires a lot of effort and soul-searching by the offender to have the family seated in the court; and if there are any victims, to have victims and their families seated there with the Aboriginal justice liaison officer and the Aboriginal elders. As is the custom with indigenous people, it is a community or family recognition of the offence and how to deal with it. I understand the Nunga court in South Australia is a prolonged process, and it would be very difficult as an offender to have to go through that.

But it does work, and it has worked in other states. It is working here with the adult court and I wish it every success. I have every faith in its going from strength to strength from being set up in various courts around the state.

An article by Carolyn Rance in the *Age* of 6 November headed 'Getting young Kooris on the right side of the law' includes comments by Andrew Jackomos, director of the department's indigenous and diversity city unit. He said:

> A lot of Koori kids in juvenile justice centres are there because of the lack of opportunities and role models. The more positive role models we have the more able we are to make a difference.

He also said the roots of the Victorian Aboriginal justice agreement:

> ... lie in the 1991 findings of the Royal Commission into Aboriginal Deaths in Custody which highlighted widespread disadvantage and inequality in the treatment of Aboriginal people.

I think this state is going a long way to improving the circumstances of indigenous people in this state, especially young indigenous people. Many of them have a lot of talent; I see that in my electorate for a start. The Attorney-General is to be commended for having the foresight to establish a Koori court for young indigenous people especially given the recidivism rates and their overrepresentation in the criminal justice system. I think it is timely that this pilot

court is established and fully supported by everyone, which I am sure it will be. With those final words, I commend the bill to the house.

**Motion agreed to.**

**Read second time.**

*Third reading*

**Hon. M. R. THOMSON** (Minister for Small Business) — By leave, I move:

That the bill be now read a third time.

I thank all honourable members for their contributions.

**Motion agreed to.**

**Read third time.**

*Remaining stages*

**Passed remaining stages.**

## ENERGY LEGISLATION (AMENDMENT) BILL

*Second reading*

**Debate resumed from 30 November; motion of Hon. T. C. THEOPHANOUS (Minister for Energy Industries).**

**Hon. BILL FORWOOD** (Templestowe) — The Energy Legislation (Amendment) Bill before the house makes a number of amendments to the Electricity Industry Act and the Gas Industry Act, particularly to protect the customers and consumers of electricity and gas in this state. It is an interesting piece of legislation with some interesting philosophical issues as well. I intend to tease some of those out in my contribution. I should foreshadow that we intend to take the bill into the committee stage to discuss some of the clauses in more detail.

The bill has received some publicity primarily because it is known as the bill that is designed to ban late payment fees and stop illegal disconnections. But the bill calls into question the relationship between privatised utilities and their customers; and the relationship between the Essential Services Commission, which is the regulator in these matters, and the government, which has decided it wants to take a course of action which has led to the legislation before the house today.

At the outset it is appropriate to make a few comments about the privatised electricity and gas systems in Victoria today. As my colleague the member for Box Hill, Mr Clark, did in the other place, I make the point that no longer do we hear nonsense by members opposite suggesting that privatisation was a bad thing and that what we should be doing is returning to the days of a nationalised system and reaggregating the industries like they were in the 'good old days' before privatisation. Every sensible person now recognises that the people of Victoria have a robust competitive system for both gas and electricity that has led not only to lower prices but to better quality of service, and that has been demonstrated by a number of reports in a number of areas since the time of privatisation. You only need to turn to recent reports by the Essential Services Commission (ESC) for this. The June 2003 report in relation to gas alone at page 17 shows in graph form the decline in the number of outages affecting five or more customers as good. The graph shows that there has been a substantial increase in performance. The graph shows that the decline in the number of outages affecting five or less is good, and the number of gas leaks is down. There is even a table for compensation for non-performance, which is described as good. The Essential Services Commission's recent review of the electricity industry performance found that the average minutes off electricity supply, both load shedding planned and unplanned, has improved substantially, particularly if you look at the graph from 1993–94 back in the days of the State Electricity Commission. The figure dealing with reduced total minutes off supply, or even appointments not met as a percentage of appointments not made, are all good.

An interesting graph at page 26 of the electricity distribution business comparative performance report for the calendar year 2003 shows the average planned minutes off supply per customer across each of the areas. All the graphs from 1995 to 2003 show that the trend is in the right area, apart from TXU which had a dip recently. But that is nowhere near where it was in 1995. Powercor shows a marked decline in average planned minutes off supply per customer.

If you statistically analyse the industry, you see that under the privatised but regulated system that is now in place we have better customer service, more reliable supply and, as I said, lower prices. That has been demonstrated conclusively by a number of reports. Why is the legislation before the house? One clause deals with the issue of the franchised or deemed customers. Every member in this place knows there is a safety net provision in place until December 2004, and the government has taken the decision to extend it to 2007, with which we have no quibble.

So far as we are concerned, the safety net is an important part of the system. We are happy for it to remain in place. We supported the legislation when it was extended in the first place to 2004, so we do not have any concern about that particular part of the bill. It is important to note that there is more robust competition and more churning — churning being the expression where people elect to move from one retailer to another. In essence, a significant number of customers still have not negotiated their own contracts with any of the energy retailers, and therefore they fall into the deemed category. For those people it is sensible to have the safety net extended for the additional three years.

Part of the work that is undertaken by the ESC is the running of the retail energy codes. Members in this place would know that the ESC recently undertook a review into the electricity and gas retail codes. The introduction of the Essential Services Commission May 2004 final decision into the energy retail code states:

> The final decision paper sets out the Essential Services Commission's decisions ...

It goes on to say:

> The review was instigated when customer groups expressed concern that the current electricity and gas single fuel retail codes did not sufficiently address customer protections in a dual fuel contractual environment.

In other words, we had separate codes for gas and electricity. What we now have is many people, including myself, who have moved to a dual system where you get both your gas and electricity from the one supplier. The commission also says that it was:

> ... responsive to retailers' views that the review should take the opportunity to implement other key regulatory objectives — that is, to reduce complexity and compliance costs and other barriers to competition — and to work towards more national consistency in retail service standards.
>
> The commission is also mindful of the progress towards development of the national framework ...

That is something I know the minister has been active in, and it is something, again, I am happy to say that we on this side of the house fully support. In some sense we are disappointed that the bill could be seen to be a diminution of the government's commitment towards the national market, but I am sure my colleagues who will be speaking on this bill will expand on that point later in the debate.

**Mr Smith** interjected.

**Hon. BILL FORWOOD** — I am sure Mr Smith will. It is a comprehensive report. It and other reports issued by the ESC, including the final energy retail code of August 2004, which is the result of this document, deals with the guts of how the system should operate at a retail level.

One of the recommendations in the final report, outlined at page 11, concerns payment of a bill and late payment fees. It states:

> In the draft decision the commission canvassed a proposal to enable retailers to charge late payment fees. It is noted that utilities in other jurisdictions often impose late payment fees to compensate the utility for expenses and the opportunity costs associated with late payment. The two types of costs typically incurred by the utility when there is late payment are:
>
> > additional collection expenses ...
> >
> > interest forgone on the cash not received ...

The commission's final decision is worth putting on the record:

> In its final decision, the commission has determined that the energy retail code will permit retailers to charge late payment fees to those customers who have the financial capacity to pay their accounts on time but choose not to do so.

That is an unremarkable finding. Let me repeat:

> … late payment fees to those customers who have the financial capacity to pay their accounts on time but choose not to do so —

That is a legitimate commercial operation, particularly if it is regulated to protect disadvantaged and vulnerable people. I will get on to that in more detail in a moment.

There is nothing exceptional about a recommendation that says that people who choose not to pay their bills on time should be punished or have an incentive not to do so — that incentive being a late payment fee. As the Essential Services Commission said in its report, there are numerous examples of credit card companies, telephone companies, and other people who do penalise you if you do not pay on time.

There are two stories about this that I think are interesting. I know that the member for Box Hill in the other place, Robert Clark, talked about David White's experience in trying to bring in a similar sort of punitive system in the late 1980s. But there are two other stories that spring to mind. One is that from the Public Accounts and Estimates Committee inquiry into fines and fees back in the 1990s we discovered that there was a whole bunch of people who deliberately did not pay their parking and traffic fines. I think you treat those people — and the committee said this — very differently to the person who does not have the capacity to pay. They are very distinct categories of people.

There are people who refuse to pay them. They get them, chuck them in the bin, and say, 'Come and chase me; see if you can catch up with me'. I think people like that should be treated differently.

The second one is an amusing but highly salutary story. It goes to the days when Bunna Walsh was the Minister for Housing and Construction in the Victorian government. One day a file was put in front of Bunna. He asked, 'What is this?' He was told, 'Minister, you need to sign these. These are the eviction orders for people who have not paid their rent'. Bunna said, 'Not on your Nellie. As long as I am the minister, no-one will be evicted from government housing — no-one'. It did not take long for the word to get out. It did not take long at all. The net effect, of course, was that everybody stopped paying their rent, and the net effect of that, of course, was that when poor Barry Pullen — a very nice, honest, caring gentleman — was appointed as Minister for Housing and Construction, he had the unenviable task of signing these things to get the system back into kilter, because people had realised that they did not have to pay their rent. Barry — to this day, I am informed — still holds the record as the minister for housing who has evicted the highest number of people. It is grossly unfair that that should be so — grossly unfair. But it is a salutary story. Because if you say to people, 'It is acceptable not to pay your bills', and are not prepared to enforce it, then you get that sort of situation.

What we have is an unexceptionable recommendation from the Essential Services Commission that explicitly says that the retailers should have the capacity to charge customers who have the financial capacity to pay, but do not do it. It does not say in here, as I will outline in a moment, that you should disconnect customers or put late payment fees on customers who do not have the capacity to pay — and that is the fundamental difference. The report goes on to say, and I think this is very important:

> The incidence of late payment of accounts is very high in the energy cycle (of the order of 500 000 customers pay their energy accounts late each billing cycle), resulting in additional collection costs which are ultimately borne by all energy consumers, including those who pay on time.

That is obvious. As the Minister for Energy Industries, Mr Theophanous will say when he comes in here that one of the reasons he is doing this is that there is a factor built into the price path to compensate the retailers for the fact that some people do not pay on time. That is true, but there is a way around that, which he should have taken, rather than the method that he has taken here. It goes on to say:

> The capacity to charge a late payment fee will provide an incentive for those who can pay their bills on time to do so or, if they choose not to, it will allow the cost of late payment to be recovered from those who generate the cost —

again, there is nothing exceptional about that —

> The commission recognises that the situation of consumers who are experiencing financial hardship would be worsened if they were to be charged late payment fees. The energy code will therefore include provisions to exempt from late payment fees customers who are having genuine difficulty in paying their accounts and to require retailers to establish arrangements to ensure that outcome is achieved. These requirements are detailed in table 1 in the decision. The commission shortly will issue a guideline on these requirements.

It is worth turning to appendix 2 of this document, which details proposed late payment fee criteria. What we are getting, if you understand this situation, is a clear recommendation from the independent retailer that those who can pay should be subject to late payment fees, and those who cannot, should not be. That is the position — and I know that sensible people in the department would agree with me when I say that. Appendix 2 states:

> (1) Late payment fees must not be imposed:
>
> (a) during the period of an extension of time the small retail customer has to pay the energy retail bill, agreed between the retailer and the small retail customer; or
>
> (b) where a small retail customer has made a billing-related complaint in relation to the relevant energy retail bill to the Energy and Water Ombudsman Victoria where that complaint is unresolved, or
>
> (c) during the period of an instalment arrangement, where the small retail customer has entered into an instalment arrangement with the retailer to pay the energy retail bill.
>
> (2) A late payment fee must be waived:
>
> (a) where the small retail customer has contacted a welfare agency/support service for assistance; or
>
> (b) where payment or part payment is by a utility relief grant—

paid for by the Department of Human Services —

> ; or
>
> (c) on a case-by-case basis as considered appropriate by the retailer or the Energy and Water Ombudsman Victoria.
>
> (3) A late payment fee may only be imposed:
>
> (a) on a disconnection notice; and

(b) if a small retail customer has failed to enter into alternative payment arrangements, within five business days of disconnection date.

(4) Retailers will be required to provide advance notice of the imposition of the fee on the disconnection notice and include a contact number for customers who have difficulty in paying the charge.

(5) The fee must be fair and reasonable having regard to related costs incurred by the retailer —

so this was not a blanket fee; this had to be related to costs incurred by the retailer —

(6) To retain consistency with New South Wales, the obligation will apply to both domestic and small business customers.

They were the safeguards that were put in place around the proposal that there be a regime of late payment fees. Let me go on. In the final decision the ESC says:

A number of stakeholders considered that the commission should take account of the treatment of credit collection costs in the four-year agreement on the price path for standing offer prices that has been negotiated between the government and the first tier retailers. While the commission considers there is a sound case for permitting retailers to charge late payment fees in the competitive retail market, it would be concerned if that option resulted in double compensation of the retailers because of the arrangements they have negotiated with the government.

The commission was not involved in those negotiations and has no direct knowledge of the basis on which the four-year price path was calculated. In these circumstances, however, the most appropriate way of ensuring that standing offer contract customers are not required to pay twice for the cost of collecting late payments would be for the government to address the matter directly with the retailers as part of their negotiated arrangements. That is, to the extent that the relevant costs are already reflected in the price path, the retailers could be asked to agree not to charge late payment fees to standing offer customers for the duration of the arrangement.

That is a sensible, well-thought-out response from the ESC in its analysis of the electricity and gas retail codes. Why, then, did it cause such a stir? Why is the concept of late payment fees such an abhorrent concept to so many people?

In particular we know of the campaign that has been fought by the advocates of the more vulnerable people in our society against not only late payment fees but certainly also wrongful disconnections and even — would you believe! — prepayment meters. This campaign was cranked up, and we have seen evidence led by some people about how bad disconnections are and how it will be the vulnerable people who will suffer from this appalling behaviour by the retailers! But I really want to put on the record a statement made to me when I was having a discussion with one of the retailers recently. The retailer said, 'We are in the business of selling power; we are not in the business of disconnecting customers'. It is such an obvious comment, and it is so true: they are not in the business of disconnecting their customers; they want to sell their power. This whole campaign was cranked up.

I have looked at some of the figures on this. One of the retailers provided me with the figures on the number of disconnections in a particular area in 1995, back in the pre-privatisation days. In that year 7649 people were disconnected in that particular area under the State Electricity Commission of Victoria's (SECV's) policy. After privatisation it dropped to below 3000. There was only a year between 1996 and 2003 when the figure was above 3000 — in 1998 it was 3207 — it dropped down from 7649 in 1995 to below 3000, and in 2003 it was 1295. The same applies to gas. I am quite happy to put on the record these points: there have been fewer disconnections since privatisation than when utilities were owned by government; disconnections in the state of Victoria are lower than any other state and the trend for disconnections is declining.

The figures also show that 50 per cent of disconnections involve skips. Skips are people who shoot through and do not pay the bill. Many of them are students — you would not be surprised about that; they share houses, move houses and do skips. Of the disconnections 50 per cent of them involve skips; they do not all occur because of late payment. I am also advised that 40 per cent of disconnections occur because of complacency. They involve customers who have the capacity to pay but do not pay because of a range of issues. How do we know that? Ninety-five per cent of that 40 per cent are re-connected within 24 hours. In other words, they have said, 'Oh, the power has been cut off. I have not paid the bill. If I pay the bill, the power will come back on'. Ten per cent of disconnections involve vulnerable customers who do not respond to letters and efforts to contact them by telephone.

The report outlines that there is an eight-step process taken before the customer is disconnected, and I will go through the existing retail code which outlines how customers can be disconnected. If you go to the retail code you see there are specific requirements each retailer must follow. In particular clause 11 of the code deals with vulnerable customers using the terms 'a customer with insufficient income' 'payment difficulties' and 'capacity to pay'. The point is that all final disconnection notices to vulnerable customers must also be provided to the Ombudsman.

This whole thing was cranked up, and there was great concern around about people being wrongfully disconnected. The authors of *Bleak House — The Implications of the Contest between Private Utilities and Landlords for the Non-discretionary Income of Vulnerable Households* are Barry Duggan and Andrea Sharam, who I guess we should congratulate on being elected to the Moreland City Council as a Green at the recent council elections. I have met with Barry and talked about his report. We will be asking the minister in the committee stage to define 'vulnerable' and then we will go through his definition of 'vulnerable' in some detail and ask how we are going to discover who is vulnerable and who is not, just so people can get their heads around the concept.

I want to put on the record a sentence from his report. I am not for one moment underplaying the difficulties faced by these people. I understand — we all understand — there are people in this society who have extraordinary difficulty coping with the economic side of life. Particularly we understand people are caught in the trap of finding money for high rents, food and water and electricity and gas to stay warm and cook their food. We all understand that, we all accept that, and we all believe they should be assisted through these processes, but what is interesting is that this report says:

> ... utilities self-interest would be better served by addressing the causes of disadvantage rather than by reacting in a punitive manner to its symptoms.

I do not believe the utilities react in a punitive manner to its symptoms, and to my knowledge no-one has led any evidence whatsoever to defend that. The concept is that it is the utilities' responsibility to address the causes of disadvantage. Was it the SECV's responsibility to address the causes of disadvantage? Is it the energy retailers' responsibility to address the causes of disadvantage? Why should it be the energy retailers who address the causes of disadvantage? Surely that is the role of government. Surely one of the fundamental purposes of government is to address the reasons for disadvantage. Surely the government should be putting in place community service obligations, like the energy relief grant scheme, which — —

**Hon. C. D. Hirsh** interjected.

**Hon. BILL FORWOOD** — I agree with that. People should have a job and the capacity to pay their bills, but those who do not need some help. Where should that help come from? Should it be the responsibility of the utility companies? No, it should be the responsibility of government.

What is interesting about this is that the government has in place a utility relief grant scheme. When I talked to the people involved with the scheme they told me that in 5 seconds over the telephone they can pick the people who genuinely cannot pay their bills and who come to them for help. Why? Because invariably they are in tears, they find it difficult, and they are ashamed.

They say, equally, they can pick the people who are trying to rort the system because the rorters know all the buttons to push — they know that if they say 'A, B, C and D' they are more likely to get the relief.

The utility relief grant scheme is a very good scheme and should be supported in that it helps the people in our society who are disadvantaged. The people who work there know exactly the ones they need to help and those who are trying to rort the system, as they can pick the people who refuse to pay their bills.

So we have this peculiar situation where the legislation brought in today to overturn an independent recommendation from the independent regulator in these matters is not supported by the evidence; it is not supported by the people who deal with the clients, and it is particularly not supported by the more recent work of the Essential Services Commission.

The media release of 7 October by the ESC is headed 'Energy disconnections and customers' capacity to pay'. It contains a full report on this issue, and I am happy for members to read it. It says, in part:

> The commission's chairperson, Dr John Tamblyn, said, 'contrary to recent public comments, this performance data and the commission's most recent independent audits do not show evidence of systemic non-compliance by retailers with their regulatory obligations regarding financially vulnerable customers'.
>
> The current and trend data on disconnections and the audit results show ...

and goes on and spells it out:

> Victoria has amongst the lowest rate of disconnection in Australia at less than 1 per cent of the 2.5 million electricity ...

**Hon. Andrea Coote** — Deputy President, I direct your attention to the state of the house, as Mr Forwood's is a very good speech.

**Quorum formed.**

**Hon. BILL FORWOOD** — In the media release that the Essential Services Commission put out it says:

> Victoria has amongst the lowest rate of disconnection in Australia at less than 1 per cent of the 2.5 million

> electricity customers and about 1 per cent of the 1.5 million gas customers.
>
> There were 14 211 actual electricity disconnections and 17 200 gas disconnections in 2003 compared to up to 2 million disconnection warning notices issued for electricity alone in that year.
>
> Electricity disconnections have trended up from their 20-year low in 1999 (of 0.36 per cent of customers) with a significant increase in the first half of 2004 (to 0.9 per cent of customers on an annualised basis).
>
> The rate of gas disconnections has been historically higher than for electricity but trended down from 2000 to a 20-year low in 2003 ... followed by a sharp increase ... to 1.5 per cent of customers annualised.
>
> In 2003, 181 200 gas and electricity customers were on energy budget instalment plans, indicating that large numbers of vulnerable customers have been identified and assisted to pay their bills.

So a system is in place to help those people. The press release also says:

> The most recent compliance audits found that all retailers have systems and processes in place to meet their regulatory obligations, and they were assessed as being implemented effectively.

**Hon. T. C. Theophanous** — So what's your point?

**Hon. BILL FORWOOD** — Let me pick up the interjection from the minister. I should say it is disappointing that I am 35 minutes into my speech and the minister arrives and says, 'What's your point?'. I reckon if he had come 35 minutes ago, he would have understood the context in which I am placing our attitude towards the legislation before the house.

It is a bit rich to come in now and ask what the point is. The essential services commissioner, the independent retailer, goes on to say:

> ... the commission has found no evidence of systematic or widespread non-compliance, it recognises that some financially vulnerable customers fall through the retailers' hardship assessment processes from time to time.

And they are the people we were talking about. It says:

> Where this occurs the energy and water ombudsman ... plays an important safety net role in mediating with retailers on behalf of those customers. For example, in 2003, 198 electricity and 98 gas customers complained to EWOV about disconnections, and all were resolved with the retailer without being progressed to dispute or determination.

So we have this situation in 2003 where 2 million disconnection notices were sent out, 180 000 people were on payment plans, 17 200 had their gas disconnected and 14 200-odd had their electricity disconnected, yet there were less than 300 complaints to the energy and water ombudsman of Victoria (EWOV) over what had happened. None of those complaints later went on to dispute or determination.

What is apparent from this fact is that the government's reaction to a perceived problem has been to bring in legislation that bans late payment fees, institutes a fee for wrongful disconnection of $250 per day — and in passing let me make the point that I am advised that a small retail customer in Victoria generates less than $50 profit per year for the retailer, yet the fine for wrongful disconnection is $250 per day — and it brings in the proposal that an analysis be taken of whether or not prepayment meters should be used, which will give the minister the capacity later to introduce regulations that will bring that in as well.

Yet despite the assertions of the *Bleak House* people and despite the assertions of others there is no demonstrated evidence, as the ESC as an independent regulator who has done the work on this has said, of systemic, systematic non-compliance with retailers' obligations; yet we have the legislation before the house.

You can ask why it is being done, and it is easy to say that it is good politics, but while we do not oppose the legislation we are concerned, firstly, at the effect on the retail system of this measure. It is easy to turn to the comments of the Energy Retailers Association which call for a more balanced debate following the recent release of the figures by the energy and water ombudsman.

It says that in the six months to June 2004, 7419 calls were received at the ombudsman's call centre. Of them there were 1559 complaints of which only 32 were not resolved with the retailers in the statutory time. This is a very small number compared to the 3 million gas and electricity customers. It continues:

> All 32 complaints were eventually resolved with the retailers. There were no notices of direction issued by the ombudsman: ninety-six per cent of complaints were conciliated. Seventy seven per cent of all cases were resolved within two days.

**Hon. J. H. Eren** — So what is the problem?

**Hon. BILL FORWOOD** — So why are you bringing in the legislation is the question.

**Hon. T. C. Theophanous** — So you don't want any customer protection?

**Hon. BILL FORWOOD** — You don't think that's consumer protection?

I refer to the article headlined 'Retailers hit Bracks plan on fuel bills' from the *Age,* which states:

> The power industry hit out yesterday at the Victorian government's plan to legislate to protect consumer rights saying it threatened the competitiveness of the industry ...

That is absolutely true. The minister was not here for the majority of the debate and has not got the history of what I have been saying in relation to this. In particular the concern that is expressed, which the minister in his second-reading speech tried to duck, is the issue that after many years of working to a national scheme the government has now decided to bring in this sort of legislation.

I go back to my earlier point. There is a difference between people who can pay and choose not to and people who cannot. They should be treated differently. The legislation before the house does not make that distinction. It is a very heavy-handed hammer. It may be a very good way to satisfy part of Mr Theophanous's constituency, but I am not sure at the end that it will do what it is intended to do — —

**Hon. T. C. Theophanous** — Why not reward people who pay early?

**Hon. BILL FORWOOD** — I am happy to reward people who pay early, and some do.

**Hon. T. C. Theophanous** — What's wrong with that approach?

**Hon. BILL FORWOOD** — There is nothing wrong with that, but, Mr Theophanous, let me put this to you: do you accept that there are people who deliberately do not pay their bills on time?

**The DEPUTY PRESIDENT** — Order! I ask the minister and Mr Forwood to speak through the Chair!

**Hon. T. C. Theophanous** — Work it out. You're not that thick!

**Hon. BILL FORWOOD** — Mr Theophanous said they would be caught. It just shows the minister is completely out of touch with the real world. I remind the minister, who probably has not actually read it himself, to go back to the findings of the Essential Services Commission. Let us put it on the record so the minister has some understanding of the bill. It states:

> The incidence of late payment of accounts is very high in the energy industry (of the order of 500 000 customers pay their energy accounts late each billing cycle) resulting in additional collection costs which are ultimately borne by all energy consumers ...

Of the 3 million customers, half a million each cycle choose not to pay. It is not that they cannot pay — they choose not to. The recommendation which you are now overriding — —

**Hon. T. C. Theophanous** — Reward the ones who pay early. Then most people will pay early. Are you so thick?

**Hon. BILL FORWOOD** — I would like to have that on the record, because Mr Theophanous shows himself to be a goose in the way he is responding. When Mr Theophanous responds like that he knows he is losing the intellectual argument. He is being done again. He is being done big time again.

**Hon. T. C. Theophanous** — Even your own side is laughing at that!

**Hon. BILL FORWOOD** — They are laughing at you, Mr Theophanous, as you know. We look forward to taking the bill into committee and discussing with the minister — —

**Hon. T. C. Theophanous** — What about the four-year price path, Bill?

**The DEPUTY PRESIDENT** — Order! I remind the house and the minister that interjections are disorderly.

**Hon. BILL FORWOOD** — The disappointing thing about the minister's interjection, as everybody who has been here for the whole of my speech would know, is that I dealt specifically with that issue in detail and pointed out how that could be dealt with. The minister and I know the issue. We understand the issue.

**Hon. T. C. Theophanous** — You would have given them a windfall.

**Hon. BILL FORWOOD** — No, I wouldn't have given them a windfall, you idiot! You idiot! You idiot!

**Hon. T. C. Theophanous** — I think Mr Forwood has lost it!

**The DEPUTY PRESIDENT** — Order! The behaviour is very disorderly, and I ask Mr Forwood to complete his speech.

**Hon. BILL FORWOOD** — Through the Chair, it is a bit rich to have a crack at me when the minister comes in here and carries on like that.

**An honourable member** — You are reflecting on the Chair. Show some respect.

**Hon. BILL FORWOOD** — Are you going to throw me out too?

**The DEPUTY PRESIDENT** — Order! I ask Mr Forwood to get back to the bill. He is reflecting on the Chair. I ask Mr Theophanous to desist from making interjections.

**Hon. BILL FORWOOD** — This is a serious piece of legislation before the house, and it is disappointing that a piece of legislation as important as this is being trivialised by the behaviour of government members. I put it to the house that if this place wants to behave as a proper regulatory chamber, it ought to show just a little bit of respect to people. One of the fundamental respects that ought to be paid in this place is that when the lead opposition speaker rises to his feet to speak — and I have been speaking now for over 40 minutes — that people who are interested come in and listen so that they are in a position to comment. Since the arrival of the minister I have been subjected to inane interjections and received no protection from the Chair in relation to that. I find it outrageous — —

**The DEPUTY PRESIDENT** — Order! I advise Mr Forwood that I have called for order on a number of occasions. The member is reflecting on the Chair, and I ask him to desist from that and continue with his speech. He does not have to continue to reflect on the Chair or the conduct of the house.

**Hon. BILL FORWOOD** — I think this is a very sad day in the chamber. I have been here for a long time and the behaviour that has been evidenced in this place today has been as low as any I have seen.

I will now return to the legislation before the house. The bill also has some housekeeping provisions. It requires that retailers publish their market-based prices on the Web. This is a sensible obligation that will enable people to use the Essential Services Commission's price comparator, and that is sensible.

We have talked about illegal disconnection, and we will tease out in the committee stage how that will work. We have talked about the regulation of early exit fees, and I am advised there is no current intention. but it can be done through order in council. We have dealt with prepayment meters, and there is the change to the bulk hot water system to give the conversion factor some clarity through powers given by the Essential Services Commission.

The bill is interesting. As I said at the outset, it raises philosophical problems about the relationships between those who can pay and those who cannot, between retailers and regulators, between government and regulators. The relationships are all complex. We on this side think it is disappointing, as we move to a national market, that we should find ourselves in the situation where the government has decided it wishes to override the findings of the independent regulator. We think some parts of this bill are unexceptionable and can be supported, and on balance we have decided that we will oppose the bill.

**Hon. T. C. Theophanous** — But you are supporting the bill.

**The DEPUTY PRESIDENT** — Order! Mr Theophanous!

**Hon. BILL FORWOOD** — I make the point quite frankly that we do not support the bill in the terms that the minister asks us to, for all the reasons I have adumbrated in his absence. On that note, Deputy President, I conclude my contribution.

**The DEPUTY PRESIDENT** — Order! I call the Leader of The Nationals, the Honourable Peter Hall.

**Hon. T. C. Theophanous** — I hope it will be better than that contribution, Bill.

**Hon. Bill Forwood** — You didn't hear my speech!

**Hon. T. C. Theophanous** — Yes, I did.

**Hon. Bill Forwood** — You bloody weasel!

**Hon. T. C. Theophanous** — Enough of that talk!

**The DEPUTY PRESIDENT** — Order! Mr Forwood!

**Hon. Bill Forwood** — You bloody weasel!

**The DEPUTY PRESIDENT** — Order! I ask Mr Forwood to withdraw his remarks.

*Honourable members interjecting.*

**The DEPUTY PRESIDENT** — Order! I will give Mr Forwood another opportunity to withdraw his remarks against the minister.

**An honourable member** — Do the right thing.

**Hon. Bill Forwood** — What do you want?

**The DEPUTY PRESIDENT** — Order! Mr Forwood, under sessional order 31, unless you — —

**An honourable member** — He withdrew. He did withdraw.

**The DEPUTY PRESIDENT** — Order! I am sorry. It was very soft. I did not hear it.

**Hon. T. C. Theophanous** — I am happy; I did not even ask for it.

**The DEPUTY PRESIDENT** — Order! I ask Mr Hall to continue.

**Hon. P. R. HALL** (Gippsland) — I have not even started! I want to start by congratulating the Honourable Bill Forwood on what was for 40 minutes an absolutely excellent contribution to this debate in the chamber. I also share the view that it was marred by inane interjections from the government side in the last 10 or 15 minutes of his contribution. This is a bill that contains some very interesting issues and there was a very thorough exploration of those issues by the Honourable Bill Forwood, who has obviously done more research than certainly I have, and it sounds like more than anyone else in this chamber has, and I for one gained some valuable knowledge by listening to his analysis of those issues. The sides both for and against were put very clearly by the Honourable Bill Forwood, and I congratulate him for that. It was an excellent speech and I share his view that it is an absolute shame that debate in this house is so often trivialised by inane interjections from people on the government side of the house. The behaviour of the minister with respect to that issue is very disappointing, particularly given that he did not listen and was not in the chamber to hear the majority of that speech.

Having said that, let me go to the bill itself. I always welcome the opportunity to put The Nationals' point of view on energy legislation. This bill makes some amendments to both the Electricity Industry Act and the Gas Industry Act. The amendments are rather administrative in nature, but they go to some interesting issues that are deserving of the analysis Mr Forwood has given them. I cannot improve on that analysis and I will not try to, except to suggest that people with an interest in these issues refer to Mr Forwood's contribution.

In my reading of the bill I have broken it down into six components and I want to speak briefly about each of the six. The first of those components is an extension of the consumer safety net for both gas and electricity to 31 December 2007. The consumer safety net provisions for the amendments to the Electricity Industry Act are contained in clauses 5, 6, 7, 8, 10, 11 and 12 of this bill, and there are similar clauses which make amendments to the Gas Industry Act. As we know, the consumer safety net has been in place for some time now. It largely covers three areas.

First of all it covers the obligation to supply. That means it does not matter where you live in the state of Victoria, as long as you comply with the details in the retail codes and you are within the distribution network you are required to be offered a price for the supply of electricity. The second area of those consumer safety nets go to price protection for small users. They are defined as customers who use less than 160 megawatts of electricity per annum. There are still price controls in respect of those small customers. The third area of the consumer safety net is the terms and conditions of supply as prescribed by the retail codes. The consumer safety net has been supported by all parties in this house, so I have no objection to the extension of those provisions until 31 December 2007, particularly as that date appropriately aligns with the current price path negotiated between the government and the retailers. So those particular clauses dealing with the consumer safety net provisions are welcome, and there is certainly no objection from The Nationals.

The second area of the bill that I want to talk about is the requirement for retailers to publish market offers to households and small business. We have seen this provision recently in the Electricity Industry (Wind Energy Development) Bill, where there is a requirement for retailers to offer a price of electricity for small producers on the Internet.

In this case we are requiring retailers to offer a price for small users of electricity. The publication of these prices is simply a market signal. It does not tie anyone down to a fixed price. Consumers can still negotiate a price up or down from these published prices, so it is not a great change in respect of electricity availability. I do not think it is going to achieve a great deal, but then again I do not think it is going to do any harm either. For that reason I have no objection.

Most of the next components are contained in clause 13, which inserts some new sections into the Electricity Industry Act covering a lot of the areas of interest that have been mentioned so far in this debate. There is a corresponding provision, clause 24, which makes similar amendments to the Gas Industry Act. Some of those areas cover wrongful disconnection, late payment fees, and issues like exit fees. They also talk later on about the possibility of the introduction of prepaid meters.

I want to make an overall comment, first of all, about the behaviour of retailers in these matters, particularly in regard to disconnection and late payment. Whenever a constituent has come into my office and explained their difficulty in meeting payments or if they believed they had been wrongly treated by an electricity or a gas

retailer, I have always received a very thorough explanation from the retailer concerned about the circumstances regarding that customer. Invariably if I have rung TXU or Origin, the suppliers to consumers in my electorate, they have given me a thorough background and the case history of the customer. I am not aware of any situation — and certainly in none of the cases that have come to me — where any disconnection has been made without a retailer going to great lengths to accommodate the special needs of that customer. People have been put on periodic payment plans to try and recover money they may owe. The utilities have gone through extensive stages of trying to assist the customer. They warn them about where they are going with bills that are owing. I believe they have gone above and beyond what I think is reasonable to try and assist the customer.

The Honourable Bill Forwood made the very pertinent comment that the suppliers of electricity and gas are in the business of supplying a service and selling a product to these people. The last thing they would want to do is to disconnect them — that is, to lose a customer. It has been my personal experience that the retailers in both the electricity and gas industries have behaved responsibly in this area and have gone to great lengths to accommodate the special circumstances of those who may have difficulty paying bills.

I agree also with the Honourable Bill Forwood's comment that there are professional cheats who want to get out of paying — people who can well afford to pay but want to get out of paying. I have no hesitation in being strong with those people. As the Essential Services Commission suggested in the review, there could be special measures to deal with those people. Sometimes it is hard discriminate between them, I admit. As I said, my personal experience is that people with genuine hardships have usually been recognised by retailers and dealt with very sympathetically.

As to the issue about wrongful disconnection, I believe that if a retailer has made a mistake and wrongfully disconnected a customer — and obviously that would cause great inconvenience to a customer — it is therefore appropriate that a penalty apply. I think the retail codes already have a self-imposed penalty for retailers to rectify any mistake they have made in regard to disconnection.

**Hon. T. C. Theophanous** — So you support the 250?

**Hon. P. R. HALL** — I am not commenting on the 250. All I am saying is that under retail codes now some self-discipline is imposed. They compensate people who have been wrongfully disconnected.

I openly say that I do not have the experience to say whether 250 is appropriate or not. I am not sure. But there should be some discipline. I agree with that as a principle. There should be some discipline on retailers to ensure that they rectify or compensate for any mistake they have made.

I understand late payment fees are currently not permitted under the retail code. This change formalises it by putting the matter into legislation. It is the same with the exit fees. We notice in clause 13 of the bill — and clause 24 so far as the Gas Industry Act is applied — that by order in council the minister will be able to prohibit or otherwise regulate the charging of early exit fees. We look forward to that order coming through, because once again I think the minister has some interesting issues to deal with in respect of that. If people sign a contract for the supply for a period of time and want early exit out of that contract, should not the supplier of those particular goods be compensated in some way? Certainly when contracts are broken the generally accepted rule is that a penalty should apply. As to how the minister deals with this issue — it is open ended, because it is going to be done by order in council — we would wait with interest to see the results of that order being published by the minister.

The other issue I want to talk about is the issue about prepaid meters. I note once again in clauses 13 and 24 that by order in council the minister may prohibit or otherwise regulate the introduction of prepayment meters for small customers. Again, I am pretty open ended on prepayment meters. I think they can be a useful device and can be helpful under some circumstances. I am not suggesting they should be compulsory for people, but I think under some circumstances they could be very useful. I am impressed now that many young people — and indeed older people too — take the offer of prepayment on phone bills, for example, and use that wisely and do not get themselves into financial problems, so therefore, I have no principle objection to the option of prepayment meters for utilities, and I think they could be helpful in some circumstances.

One thing I have a concern about is that the introduction of prepayment meters is going to be done by order in council, and consequently there is going to be no opportunity for the Parliament to have an initial oversight of their introduction. I note in the second-reading speech that the minister promises a thorough review or inquiry into it before it is introduced. I welcome that, but I have to say also that

the experience of some of the reviews or inquiries undertaken by the Bracks government have not been all that open or transparent and have not provided the opportunity for people's views to be thoroughly considered. So one hopes the review before this may or may not happen is one that gives everybody an opportunity to make informed comment on the issue. I hope the government listens to the views that are expressed by all parties when it comes to that inquiry.

It is interesting that in this particular provision any variation to the original order made by the minister is going to be disallowable by either house of Parliament. I welcome that provision being inserted, but I simply ask the question: why is not the initial order also disallowable by either house of Parliament? I would welcome an explanation from the minister as to what I see to be an inconsistency in this provision.

As I said at the outset, this bill contains changes to administrative arrangements. Interesting issues are covered and, as I said at the start, Mr Forwood has dealt with those more than adequately. His comments have been informative for all of us who were here to listen to them. It will help us to better understand this legislation and the issues associated with it, and hopefully it will improve the debate.

Without further comment, I indicate that The Nationals will not be opposing this bill. However, there are some issues and developments relating to the powers given to the minister under this bill that will be interesting to watch, and we will certainly be keeping an eye on those as they arise.

**Mr SCHEFFER** (Monash) — The key purposes of the Energy Legislation (Amendment) Bill are to extend the operation of the customer safety net and to establish further measures to protect customers of electricity retailers. These provisions will apply to both the electricity and gas industries. The Bracks government has promised to ensure that energy supply is secure, reliable and affordable for everyone across the state. Since its election in 1999 the government has worked hard to protect Victorians against the potential damage that can be experienced by vulnerable consumers in a privatised energy market. It is worth recalling the many landmark policies that the Bracks government has implemented and that have dramatically improved the lives of all consumers in the privatised energy market and that have provided sound and sensible protections for vulnerable consumers.

In its first term the government established the Essential Services Commission to guarantee the availability of reliable and affordable energy. The government also established the Office of the Energy and Water Ombudsman (Victoria) and the Consumer Utilities Advocacy Centre to help protect consumers and to advocate on their behalf. The government also established the Sustainable Energy Authority to promote renewable energy and to make sure that consumers have access to energy-efficient options and that programs are in place to assist them in making choices. The government has also put in place a range of rebates to encourage energy-saving behaviours. It also developed the Victorian greenhouse strategy that was the result of an extensive consultation process that made sure the strategy would be effective and would have wide public and industry and support. Most people now understand the critical importance of government playing a leading role in reducing greenhouse emissions from the energy sector.

The Bracks government has pledged to protect Victorians from unjustified energy price rises and to protect the interests of vulnerable consumers of gas and electricity. This is an important role for government in the context of the privatisation of the gas and electricity industries. A privatised energy market must have regard for the potential negative impact it can have on households, small businesses, farmers and industry. The consumer safety net is one important way the government protects vulnerable consumers.

In January 2002 the government finalised the introduction of retail competition in the Victorian electricity industry. This meant that all domestic and small business consumers could from then on choose their electricity retailer, and in October 2002 the final stage of retail competition was introduced for domestic and small business gas consumers. In late 2003 the Minister for Energy Industries asked the Essential Services Commission to look at retail competition in the electricity and gas industries to see how competition could be improved and also to propose measures that would provide an effective safety net that could protect consumers. The consumer safety net requires energy retailers to offer supply to all households and small businesses inside their respective host areas. It requires energy retailers to supply energy to consumers who do not have a formal contract with the retailer but who live in the host area. The safety net makes sure that prices are just and that the Essential Services Commission has the authority through the energy retail code to make sure that the terms and conditions the retailer offers to consumers are fair.

The bill provides for the extension of the consumer safety net protections and this has been widely applauded. Cath Smith from the Victorian Council of Social Services commended the government's decision

to extend the safety net for gas and electricity customers to 2007 and indicated that her organisation's research shows that not only are low-income households not benefiting from full retail competition for gas and electricity, but they would risk being left without a supplier if the safety net were not in place.

The Essential Services Commission also said that competition in energy retailing has strengthened, that competition delivers a good service to about 40 per cent of domestic and small business consumers and that some consumers are not being sufficiently included. Many of these consumers live in rural communities where I expect the infrastructure costs to energy retailers make the return less attractive. These are precisely the consumers that government must play a role in protecting.

The Essential Services Commission proposed a number of ways to improve retail competition. These include better information for consumers about the pricing and consumer education so that people feel better able to make decisions. Competition in the electricity and gas market is a recent development and I believe most consumers are still uncertain how to assess various products on the market when they are used to a government-provided and administered service in these products. The report also proposed reducing regulatory barriers and this included aggregation. This occurs when a number of consumers collaborate to bargain for better deals with energy retailers. Such initiatives could prove to be of considerable advantage to both energy retailers and consumers. The problem is that right now there is no satisfactory formula that can deliver commercial benefits to both operators and retailers. The Essential Services Commission will undertake an analysis of the issues and develop a set of guidelines so that commercial arrangements can be agreed upon. This is one area where the government is supporting sensible approaches to problems encountered by retailers and business consumers in the energy market.

The Energy Legislation (Amendment) Bill also addresses a number of other particular issues that strengthen the protection for vulnerable consumers. The issues involved in retailers charging late payment fees were considered by the Essential Services Commission. Retailers felt themselves to be disadvantaged by consumers who, while facing no personal hardship, paid their bills at the last possible moment and were thereby imposing an unfair cost on the retailers which was then passed on to other consumers. A late payment fee can act as a discipline that pressures consumers who can afford it to pay their accounts on time. On the other hand the late payment fee further disadvantages those who do not pay their accounts on time because they cannot afford it.

The Essential Services Commission allowed retailers to impose late payment fees in prescribed circumstances that were intended to identify and protect consumers who genuinely could not afford to pay. Subsequently the Essential Services Commission has found that the screening protocols used were inadequate to confine late payment fees to consumers who can afford to pay. So consumers experiencing financial hardship were still being expected to pay late payment fees. The bill therefore prohibits retailers from charging late payment fees. But the minister said in the second-reading speech that there will be no prohibition on retailers providing incentives or discounts for timely payment of energy bills. This is the direction that retailers are encouraged to go.

The bill also deals with early exit fees which can have the effect of blunting retail competition and limiting the capacity of a consumer to maximise the benefit they can derive from a competitive market. The bill creates a reserve power that can prevent retailers from opposing an early exit fee where a customer decides to end the contract before the agreed time as set out in that contract. The provision strikes a balance between the legitimate interests of the retailer and the imperative to protect consumers. If an order under the reserve power were made, the retailer could be out of pocket because it would forgo income.

However, on the one hand the retailer would still be able to use a range of other encouragements, such as loyalty discounts, to keep customers. On the other hand consumers would be required to give appropriate notice of their intention to end their contract with the retailer, and this would afford some protection for the retailer with regard to its administrative costs. As well, the prohibition on imposing an early exit fee would only apply to consumers whose annual usage does not exceed a set eligibility threshold. Also the prohibition will not apply to existing contracts. I think the balance struck there is fair.

Another serious concern that has arisen out of the privatisation of the energy industry is the impact that illegal disconnections can have on customers. Consumer advocacy organisations and the energy and water ombudsman have argued that retailers continue to disconnect services to vulnerable customers. It is self-evident that disconnecting the gas and electricity supplies from people on low incomes is extremely serious. The energy retail code sets out procedures for retailers needing to disconnect a customer.

The bill therefore provides for the fining of retailers who carry out a disconnection that is not in accordance with the energy retail code. A retailer who is found to have illegally disconnected a customer will face having to pay compensation to the customer as well as having to pay a penalty of $250 for every day the customer was illegally disconnected. This penalty is adequate and in line with the seriousness of the offence.

Finally I want to say something about prepayment meters — a matter that has been vigorously debated in the community. Once again this is a matter that seriously impacts on vulnerable consumers. People who are up against it would have their energy supply cut automatically and so lose heating, hot water, light, TV and radio — all of which leave them in a dangerous situation and facing unnecessary discomfort especially if they are experiencing ill health when their media communications are cut off.

People in difficult financial circumstances and faced with the choice of feeding the meter or buying food will let the energy supply go and so expose themselves to further deprivations. The government has decided not to allow the introduction of prepayment meters until an inquiry has been conducted to examine the issues involved — in particular the impact they may have on people who find themselves in difficult financial circumstances. The bill will also provide a reserve power that can disallow the use of prepayment meters or regulate the introduction of prepayment meters in cases where the customers are likely to be further disadvantaged. Any subsequent variation to an order can be disallowed by the Parliament.

The support of the bill by important peak organisations such as the Victorian Council of Social Service (VCOSS) is welcome. Despite its view that the government should impose an outright ban on prepayment machines, VCOSS is very supportive of the clarifications this bill provides in relation to illegal disconnections and is satisfied with the level of the penalties that will be imposed on retailers who are found to have acted out of the retail code.

VCOSS also welcomes the measures introduced on late payment fees because it recognises, as the government does, that the most vulnerable members of the community can suffer unequally when fees are imposed without regard to people's circumstances. VCOSS says that gas and electricity are not just commodities but essential services — a sentiment with which the government would not disagree.

This is strong and necessary legislation that will provide significant benefits to the whole community and give better protection to vulnerable consumers. It encourages greater competition while providing more protection for consumers. I commend the bill to the house.

**Hon. C. A. STRONG** (Higinbotham) — In rising to speak on this particular bill it is worth reflecting on the fact that the electricity and gas industry are very significant industries in this state. Billions of dollars are invested in them, and we need them because they provide the essential services of electricity and gas. Therefore it is enormously important that they have confidence to continue to invest. Certainly the electricity industry will need to invest more money in the future to assure reliability of supply. It needs to be continually investing money in upgrading its distribution systems to assure reliability of supply and so on. Those private sector organisations have billions of dollars invested, and they need to have some confidence that the decisions that can be made which affect their business and assets are independent and not subject to the whims of the government of the day.

That is the very reason the independent regulator was set up during the privatisation process. That is why the independent regulator exists today. The regulator has had a name change from the office of regulator-general to the Essential Services Commission but the role and the person are essentially the same.

It is very important that it continues to be the body that sets the standards. It is the body which administers the code under which the utilities carry out their business. It sets and regulates the code; and if there is a breach of that code, there is a breach of the franchise agreement. All that is done by the Essential Services Commission — an independent body which gives confidence to the industries to continue to leave their money in Victoria and to invest more.

Here there is a none-too-subtle change in the way that process works. Now there is a code written and established by the Essential Services Commission; that code is part of a licence agreement under which the businesses operate. In devising that code the Essential Services Commission clearly has to be mindful of the legislation that comes through this house and in creating the code it is mindful of those conditions. But the bottom line is that it is the Essential Services Commission and the code that have regulated the industry.

We are stepping back from that now and starting to regulate by acts of Parliament. This is a fairly dangerous step. Even though these are only small steps, they are steps that need not have been taken in this way.

Therefore the industry has some understandable concern as to where they may lead — no more so than in the area of late payment fees where the Essential Services Commission had a full inquiry and made a recommendation that where people were able to pay on time and sought to avoid their obligations to pay the bill, then it was not unreasonable for a late payment fee to be applied. The Essential Services Commission went on to say — —

**Hon. T. C. Theophanous** — Are you voting against it?

**Hon. C. A. STRONG** — I am amazed by this little man with a small brain. He comes in here in fancy dress and wears a big hat because he has a small man phobia, and all he does is make stupid inane comments. He should listen to a proper debate.

There was a clear recommendation that where an individual had the capacity to pay and chose not to, it was not unreasonable that some late payment fee would be charged. On the other hand where somebody was not able to pay on time because of financial strictures, such a late payment fee would not be applied. The minister in his second-reading speech — in his normal way he does not know what the hell he is doing — said:

> We do not believe that people who are unable to pay their bills should be penalised further by late payment fees.

He is saying that late payment fees should not apply to people who are unable to pay their bills, but why should they not apply to people who are able to a pay their bills? Why the minister has sought to simply override the Essential Services Commission in this particular area is cause for concern.

I turn to prepayment meters, an area which is appropriate for the Essential Services Commission to look at. As I understand it, it was scheduled to look at this and to insert into the code the appropriate conditions or prohibitions, or whatever, of prepayment meters. But no, this seems to have been taken out of the hands of the normal processes of the Essential Services Commission and once again will be enshrined in legislation, which is the inappropriate place for it. The appropriate place for it is in the code.

Likewise the issue of contract cancellation is an issue which should appropriately be dealt with through the Essential Services Commission and included in the retail code, but this will now be included in legislation. What we do not know, and what we have grave fears of, is whether those Essential Services Commission's powers will continue to be whittled away and taken on by the government of the day? That is very dangerous to these utilities because they rightly fear this lack of independence, which was a hallmark of the system that was put in place by the previous government and which has proved to be very successful. It is a great pity that the whole code process is being undermined by a government that seeks to put conditions that are rightly in the retail code into the legislation. In the committee stage of the bill it will be my intention to tease out these issues in more detail with the minister. I am sure as part of the teasing out process we will be able to show the absolute ignorance and stupidity of the minister.

**Hon. C. D. HIRSH** (Silvan) — I rise to speak on the Energy Legislation (Amendment) Bill. I have sat through the debate and shall take up some comments made by members. The position I and many of my constituents hold is that there would not be any need for this legislation if the Kennett government had not privatised these essential industries in the first place. The fact is that energy provision is an essential service and should be sold and controlled by government. It should be a government monopoly. That is the view of the people I have discussed it with, and my view as an Independent. I am pleased to be able to express this view. However, the egg was scrambled.

**Hon. Richard Dalla-Riva** interjected.

**Hon. C. D. HIRSH** — I take up that remark. I do not know what it means. It certainly has nothing to do with Labor Party policy.

**The ACTING PRESIDENT (Mr Smith)** — Order! Ms Hirsh is not to take up the interjection. The member will not interject.

**Hon. C. D. HIRSH** — Essential services should not be subject to either privatisation or competition. One of the problems every month is when you receive your electricity or gas bill you also get a lot of shiny advertising material. I do not know about anyone else, but I find the competition issue too complicated — I just pay the bill. I get cross about the shiny stuff that comes with a bill because of its cost and waste of resources by using very expensive paper with lots of colour print. It should not be necessary when paying for an essential service.

I am certainly not speaking from a Labor Party point of view because my personal view derives from my philosophical position and discussions with constituents in my electorate. Given that the egg was scrambled, and it cannot be unscrambled, it is important that people who buy electricity and gas — the small retail customers such as ordinary people, people on benefits, pensioners, people in rural areas who do not have

access to a lot of income, sole parents and people with disabilities — have protection. Regulatory steps need to be taken given that we have this scrambled egg of competition.

Mr Strong said that we should not have all these regulatory steps. It is essential that people are protected. Having your electricity turned off when the bill has not been paid is no fun, but having it turned off when you do not have enough money until the next Wednesday or Thursday in this day and age is difficult to manage, even in rural Victoria where people often still have combustion stoves, open fireplaces and so on. You can no longer manage without electricity. I say again that it is an essential service.

I suggest to the minister that it might be a good idea to allow people on low incomes to not prepay for their electricity — that is, having a meter installed and pay as they use it, because when they run out of money the electricity or gas is turned off — but to buy stamps or cards at the post office, as you can do with telephones, every couple of weeks and pay as you go. That concept is a useful one for many low-income people and enables them to manage their finances. I suggest that a system like that, as well as the very good discounts that are given at the moment to lower income consumers of electricity, be brought in.

Mr Forwood talked about the difference between people who can pay their electricity and gas bills and who choose not to pay versus the people who actually cannot pay. It is rather difficult to understand, and the reason the late fees are being abolished is that it is fairly difficult to work out who can pay but does not versus who cannot pay.

Mr Forwood suggested that the honest people who really cannot pay look ashamed. Why should anybody be ashamed of not having enough income to meet the expenses of daily living? That is not a matter of shame; that is simply a lack of income to meet expenses. I think we as a nation and a state should be ashamed of ourselves that there are people in our community who cannot afford to live on a day-to-day, week-to-week basis in a degree of comfort. If it is milk or your electricity bill, you have to buy milk. So the concept of shame when you cannot pay your bill is not one I accept at all.

**Hon. Bill Forwood** interjected.

**Hon. C. D. HIRSH** — I did not hear the interjection, so I will not take it up. I do not think I agreed with it.

*Honourable members interjecting.*

**Hon. C. D. HIRSH** — But a sense of shame because you cannot pay a bill is just not something that should happen or be encouraged. People need to hold their heads up and do the best they can and to fight for proper incomes to be able to pay their bills. That is a relatively left-wing view, Mr Forwood; it is rather more left-wing, I think — —

**Hon. R. G. Mitchell** — Than Mr Forwood.

**Hon. C. D. HIRSH** — Possibly, and possibly the position I might have adopted were I not an Independent. But as an Independent, that is my view — that no-one should be without electricity.

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

**Business interrupted pursuant to sessional orders.**

## QUESTIONS WITHOUT NOTICE

### Consumer affairs: Cambodian Association of Victoria

**Hon. PHILIP DAVIS** (Gippsland) — I wish to direct a question without notice to the Minister for Consumer Affairs — the sort of question that a former member and our good friend, Pat Power, might have been pleased to ask. I refer to page 186 of the Auditor-General's report headed 'Results of 30 June 2004 financial statement and other audits', which was released yesterday. It states that the Cambodian Association of Victoria (CAV):

> ... had not lodged an annual statement by its public officer with Consumer Affairs Victoria for four years. The annual statement by CAV's public officer was required to be accompanied by audited accounts. At the time of the deregistration action, the most recent annual statement and audited accounts held by Consumer Affairs Victoria on CAV activities was for the financial year ended 30 June 1998, and had been received in March 1999.

When did the minister find out about this abuse of Victoria's financial reporting standards, and what action did he take?

**Mr LENDERS** (Minister for Consumer Affairs) — I thank the Leader of the Opposition for his question. I am absolutely delighted that it is one that hits right on both my portfolios, so I am absolutely delighted to deal with it and to take the leader through, I guess, two areas — one, what happened? And two, what are we doing? They are very pertinent questions, and again, I am delighted to take them.

Firstly, I cannot recall the date exactly when I found out, but I am happy to get the date for Mr Davis. But

certainly it was drawn to my attention — I think it was probably at the time when the media reports were out on that one — that the Cambodian association had not lodged a return for a period of time. I immediately sought from the department an investigation — one, why this particular association; and two, on the general issue of how these returns came in and what was going on.

On the general issue I commissioned Ms Dianne Hadden, a member for Ballarat Province, to head an inquiry into incorporated associations. Ms Hadden is actually doing the work on the 35 000 associations.

We have had a mixed response as to how rigorously you apply the paperwork to voluntary groups. Do you stifle them with red tape? The other side of the coin is the necessity for accountability by the public for the money they spend and raise, their assets, where that aligns with our particular reporting for fundraising for associated incorporations and how it relates to the federal Companies Code. The ongoing policy work that the Auditor-General has drawn us to is being done by Ms Hadden, and she will report to me on that shortly.

The second issue involved here is the Cambodian Association of Victoria and the consequences of its actions. The consumer affairs web site lists all 35 000 of those associations and puts next to them the status as to when the last annual report was lodged and so on.

The Auditor-General's report alerted us to this problem, and that is why we like Auditor-General's reports. They keep governments on their toes as they should and they also acknowledge when governments do things right. We have acted on the report. I met with the officers of Consumer Affairs Victoria and worked with them on the exact guidelines of the registration process and how it worked, and I have also worked with them on our general fundraising guidelines.

It was a timely reminder that we need to keep our laws refreshed and up to date and that we need to look at getting the balance exact between putting onerous burdens on small community organisations — requiring them to fill in dozens and dozens of forms — and keeping them accountable for the money they raise, for the property they own on behalf of their members and accountable to the community, particularly if government funds are given to such organisations. That is a balance we seek in public policy, and it is the advice the Auditor-General urges us to adopt.

Regarding the Cambodian Association of Victoria — and I do not have the figures at my fingertips, but from recollection it was three years worth of annual reports — we investigated why they had not been filled in. It is one of those classic cases that happens with many of these associations whereby the public officer's address is the contact point for government. The mail went to the public officer, but the public officer had changed, and the mail was not passed on. The fault in the organisation was that it was not picked up somewhere, and that is an alarm to government — how do we put better checks in place for those things?

In response to Mr Davis, I found out about it at about the time it was in the media. What have I done? I have met with the department in the present, and I have commissioned Ms Hadden for the future. What do we think of Auditor-General's reports? They are good; we welcome them. Good policy is being developed. It is a good outcome; so this government listens, acts and gets good policy.

**Questions interrupted.**

## DISTINGUISHED VISITOR

**The PRESIDENT** — Order! I acknowledge a former member of this chamber, Mr Pat Power.

**Questions resumed.**

*Supplementary question*

**Hon. PHILIP DAVIS** (Gippsland) — Mr Power was a very good member and a friend to many on my side of the house.

As a result of the Cambodian Association of Victoria case the Auditor-General recommended that Consumer Affairs Victoria fully document the processes to be followed in processing and assessing applications for grants, ensure actual assessment of the grant applications are adequately documented and that grant applications be required to provide audited financial statements to facilitate the assessment process. Is the minister going to immediately implement these reforms to prevent the lack of accountability and transparency in consumer affairs in the future?

**Mr LENDERS** (Minister for Finance) — I do not know whether to grieve or be amused by opposition members forever going on about accountability and transparency when they were the ones who nobbled the Auditor-General. But leaving that aside, on this specific issue of what we are doing in consumer affairs, the Auditor-General's report does report, and he says consumer affairs needs to do a number of things — and do them better — and that is what we are doing.

But if Mr Davis looks at the Auditor-General's report, he will see that most of the grants are not consumer affairs grants; they are from other parts of government. Having said that, I have sat down with the department, we have gone through the paperwork and fixed our processes. We have commissioned future work with Ms Hadden to get the policy direction right in this. We have listened to the Auditor-General and to the community. We have acted on what the Auditor-General did, and we have acted on what the community wanted. So this government listens, acts and is proud of it.

## Aged care: Productivity Commission report

**Hon. KAYE DARVENIZA** (Melbourne West) — I direct my question to the Minister for Aged Care, Mr Gavin Jennings. I refer the minister to the recent Productivity Commission research report, *Economic Implications of an Ageing Australia*. Can the minister advise the house of the Victorian government's response to this report, and is the minister aware of any other responses to this report?

**Mr GAVIN JENNINGS** (Minister for Aged Care) — I thank the member for this important question, because the Productivity Commission report gave the nation some important information about the ageing profile of our population, something that has been a recurring theme from my contributions to this house over the last two years. Put in simple terms the Productivity Commission estimated that over the next 40 years those in our community over the age of 65 will rise from a current recent 12.8 per cent of the population to being 26.1 per cent of the population. Importantly, in terms of the needs of care for older members of the community, the number of those over the age of 85 is growing significantly from 1.5 per cent of the population now to 5.4 per cent of the population in 40 years time.

The extraordinary thing that has come from the work of the Productivity Commission and the commentary that is associated with it is that there has not been applauding across the nation for the good news that represents in terms of increasing life expectancy. There has been no tick in terms of the good news that means for the health status of Australian people, and no good news in terms of the quality of the contribution that older members of our community have paid up until now and will pay in the future. In fact it has all been gloom and doom.

The words of the federal Treasurer amplified this last week when he used the phrase, 'Demography is destiny'. All older members of our community understood what he was saying then. It translates as, 'Demography is a drain. Older people are a drain on the resources of our community', and it goes to the heart of what is described as the dependency ratio that the Productivity Commission has established. The way in which this issue has been discussed has been as a negative assessment. That is not to mean there are not significant costs involved. Estimates of the increase in health care costs over the next 40 years are that it will rise from more than 5 per cent of gross domestic product at the moment to 10 per cent of GDP. Indeed the cost of aged pensions will increase from 3 per cent to 5 per cent over this period.

For its part the Bracks government is not standing still. It is acting within its responsibilities to deal with this matter. In this Parliament I have announced issues that range from improving care for older people in hospital systems to residential aged care support and healthy and active living programs — which are preventive health measures — and work force participation.

We have dealt with a whole range of those issues but — surprise, surprise! — last week, despite those efforts, the shadow minister for this issue issued a press release that called upon me to take responsibility for these aged care issues across the nation. According to the shadow minister, I am responsible for a range of measures that the Productivity Commission has reported on. Am I responsible for labour market reform? Am I responsible for economic growth? Am I responsible for personal benefits and pensions? Am I responsible for income tax regimes? No! But on behalf of the Victorian government I am happy to pay our fair share in relation to aged care, despite the fact that the commonwealth is responsible for aged care through the 1997 Aged Care Act and despite the fact that the commonwealth is responsible for licensing, regulating, and funding the aged care sector. All in this chamber know the commonwealth is far behind the mark in terms of delivering those results.

Indeed the shadow minister went on in this press release to say we need more than spin and photo opportunities. But the only photo opportunities I have had during my life as a minister — and probably will have — is opening the 34 residential aged care facilities that the Bracks government has invested in to make sure we are providing residential aged care to the Victorian community!

## Government: financial reporting

**Hon. PHILIP DAVIS** (Gippsland) — I direct a further question to the Minister for Finance. I refer to page 89 of the Auditor-General's report of results of

30 June financial statements released yesterday, which states that the Financial Management Act 1994 requires that a company incorporated under the corporations act that has its shares owned by or on behalf of the state must submit its annual report as soon as practicable after the end of each financial year to be tabled in Parliament on or before 31 October each year. I ask the minister when he found out which of the six companies listed in the Auditor-General's report could not submit their annual reports until 12 months after they were due, and what has he done to prevent this in future?

**Mr LENDERS** (Minister for Finance) — I thank Mr Davis for his question. I have started flicking through the report looking for that particular page. I do not recall what those companies were that he mentioned, but I will certainly look into it. I do not recall the day I was asked about them. Periodically as Minister for Finance under the Financial Management Act you are asked by organisations to give exceptions to things like their returns or annual financial reports. I do not know what these companies are. They might be an authority which has changed from a financial year to a calendar year; they might be those transition ones; they might occasionally be ones where the Valuer-General or the like has done a revaluation. Often you are asked to give authority under the Financial Management Act for some of these things to be changed. In a sense it is hypothetical because I do not know which companies the question is referring to, but I will talk — —

**Hon. Philip Davis** — It is not hypothetical. It is in the Auditor-General's report.

**Mr LENDERS** — The Leader of the Opposition says it is in the Auditor-General's report. I assure the Leader of the Opposition that unlike the Kennett government I pay a lot of attention to the Auditor-General's reports. I read a lot of documents for the 72 acts of Parliament I am responsible for. I may disappoint Mr Philip Davis, but I do not remember every single clause and page of those documents on recall for a question without notice. I will certainly treat the Auditor-General with the respect he deserves, which he never got from the Kennett government. I will be tabling a report in this place in the next few weeks, which is the Minister for Finance's response to all the Auditor-General's reports and all recommendations as to where government goes on them. We treat him with respect. We systematically follow them up. But I do not recall every item on every page on a question without notice.

On the principle of where we make exceptions — where there is a request of us to vary the Financial Management Act for reporting time — we will consider it. I periodically get letters from a lot of my ministerial colleagues to say there was a change because of moving from a financial to a calendar year; organisations amalgamate; some come in out of the public sector — periodically I sign off on those. I would happily take the question on notice and get back. If the Leader of the Opposition in his supplementary question wishes to list some of them, I will try to answer them. I can only answer in general terms at this stage.

Unlike our predecessors we have amended the act on a number of occasions, so we have things like the Minister for Finance's reply to every single one. We have quarterly and half-yearly reports. Mrs Coote is making a gesture — a polite gesture to help me as an accountant — but I remind the house that on 15 January 2003 the *Australian Financial Review* told us that this government was too transparent and produced too many reports. We get the balance right, we listen, we act, and I look forward to the supplementary question.

*Supplementary question*

**Hon. PHILIP DAVIS** (Gippsland) — I am delighted with the minister's answer because it allows me to tease out a particular matter. The Auditor-General's report concluded that the annual reporting obligations of the companies:

> under the Financial Management Act 1994 have not been met and, consequently, accountability to Parliament has been significantly diminished.

Therefore I ask the minister, as this is directly his responsibility, what he is doing to restore credibility in the government's appalling financial reporting record as revealed by the Auditor-General?

**Mr LENDERS** (Minister for Finance) — To get my analogy right, this is a the needle in a haystack. Mr Davis is telling us there is a needle somewhere in there, and he wants us to inspect it and comment on it. We can talk about needles generally in haystacks.

**Hon. Philip Davis** — I gave you the page number!

**Mr LENDERS** — He gave me the page number, and I accept that. But in questions without notice it is a bit hard sometimes to flick through all these documents, and you do not have your library in front of you.

**Hon. Philip Davis** interjected.

**Mr LENDERS** — Nevertheless Mr Davis asks what are we doing on this side to have some accountability? I remind Mr Davis and the house not

just about what the *Australian Financial Review* said about us being too transparent, but also the report I will bring to this Parliament in a few weeks which covers the entire last financial year — every single recommendation from the Auditor-General and what we have done about it. Talk about being open, transparent and accountable! We do it every year. We like the Auditor-General and we welcome his reports.

## Sport and recreation: major events

**Hon. J. H. EREN** (Geelong) — I direct my question to the Minister for Sport and Recreation. Following recent media reports that next year Ashes test series will not be broadcast on free-to-air television, I ask the minister to highlight to the house how the Bracks government's major events strategy is showcasing Victoria as the place to be at home and abroad with suitable television coverage.

**Hon. J. M. MADDEN** (Minister for Sport and Recreation) — I thank the member for his interest in sport and recreation, particularly in his own region of Geelong, where I know he has been very supportive of a number of initiatives that have taken place. Members of the house would appreciate that we as a state have a well-earned reputation as the sports capital of Australia, and our government has led the way particularly with its major events strategy. We have seen an array of major events developed throughout Victoria as well as in Melbourne.

I was particularly pleased to be involved with a recent media event which highlighted the 2005 Artistic Gymnastics World Championships to be held in Melbourne. They are just one year away and will be held between 21 and 27 November. We know members of this chamber enjoy their gymnastics; even the opposition is prone to some gymnastics at times. I will not go there, but opposition members will know what sorts of gymnastics I am talking about. The event is being staged in Victoria for the first time. It was previously held in Australia in Brisbane in 1994. The great thing about this — —

**Hon. D. K. Drum** interjected.

**Hon. J. M. MADDEN** — We will get to the Ashes eventually, Mr Drum!

The great thing about this event is that the championships will be seen on television around Australia and around the world. This is particularly important because the event will showcase Melbourne and Victoria to the rest of Australia and in particular to the rest of the world. It is important to appreciate that having a major event like this, having the venues to hold the events in and showcasing those to not only the state but also to the rest of Australia and an international audience, is a great way to raise the profile of the sport.

When you consider that we have some of the best venues, some of the best events and some of the highest participation levels, whether it be at the elite or grassroots levels, it is part of an overall strategy. It is disappointing that the federal government does not pursue a similar strategy. It is disappointing because if it were sincere about its antisyphoning laws, it would have a good look at the way in which they are being overcome through the obvious loopholes in relation to the Ashes test.

If the federal government were serious, it would implement changes to its legislation to ensure that free-to-air television, rather than just pay television, would provide a coverage of the Ashes tests next year, and that would help raise the profile of cricket in Australia. It would help generate further enthusiasm and interest and would ensure that the general Australian public, including the Victorian public, could see the Ashes on free-to-air television rather than pay-to-view TV.

Australians love their sport; Victorians love their sport. They love their gymnastics; it was the second most popular Olympic sport at Athens after swimming, and the 2005 World Gymnastic Championships will see 400 elite gymnasts from over 50 countries perform over 60 days. We expect thousands of visitors here for that event, which will provide more than $8 million to the Victorian economy.

You can see, President, there are a number of benefits, economic and social, and it will also be a great test event for the 2006 Commonwealth Games, in that the technical officials will be able to be trained and brought up to standard for the games. We will also see 300 volunteers involved in the championships, which will be held at the Rod Laver Arena. It is another investment by this government to make things happen, particularly in the area of sport.

## Energy: green power

**Hon. W. R. BAXTER** (North Eastern) — I direct a question to the Minister for Finance. I refer to the minister's proud boast at question time yesterday that whole-of-government contracts are saving $600 000 in electricity costs per annum. Having just attended an excellent science seminar in the Legislative Council committee room on power, I ask: is the government

practising what it preaches by purchasing a percentage of green power under the contracts to which the minister referred yesterday?

**Mr LENDERS** (Minister for Finance) — The answer is yes.

*Supplementary question*

**Hon. W. R. BAXTER** (North Eastern) — It is good to know that. I therefore, as a supplementary question, ask: what premium is the government paying to suppliers of green power under those contracts?

**Mr Gavin Jennings** interjected.

**Mr LENDERS** (Minister for Finance) — My colleague Mr Jennings is attempting to be helpful. I am sure you will assure him he is not, President.

There are a number of issues here. I will take the question on notice and get back to Mr Baxter with some of the specifics. Some issues among them are obviously subject to commercial in confidence, and also — —

*Honourable members interjecting.*

**Mr LENDERS** — No, I am serious. I am endeavouring to seriously answer the question. The member asked a legitimate question about our premium, and I will certainly endeavour to get back to him. I would want to check first, as with anything that is a procurement, what is commercial in confidence. We give out information rather than withhold it. I will get the information to him. Generally on these issues my answer would be, 'The same as anybody else'. But I will get the information for him.

## Local government: elections

**Ms HADDEN** (Ballarat) — My question is for the Minister for Local Government. Will she inform the house how last weekend's local council election results are further evidence of how the Bracks government has strengthened democracy at the local government level in Victoria?

**Ms BROAD** (Minister for Local Government) — I thank the member for her question and her keen interest in local government in Victoria. Strengthening democracy and building confidence in local government elections is the foundation of the Bracks government's approach to local government. The elections, held in 25 councils across Victoria last weekend, showed that democracy is truly alive in Victoria. On behalf of the Bracks government I again congratulate the successful candidates. The conduct and participation levels in the suburban and regional councils, including the major regional centres of Geelong, Ballarat and Bendigo, as well as the calibre and diversity of candidates, were a resounding vindication of the process. It showed a high level of community engagement with council issues.

I am pleased that these elections mark a return to stability and certainty in a local government sector that has experienced substantial change over the last decade. The weekend's results certainly exposed some of the nonsense being put forward by the opposition, which cannot seem to make up its mind where it stands on some of these matters, despite having introduced postal voting when it was last in government. Throughout these elections the local government opposition spokesperson proposed abolishing postal voting. The fact is that individual councils can choose whether to use attendance or postal voting. For my part it is time there was discussion about participation rates in local government elections, and I will be listening very carefully to the sector and its views on this matter rather than simply determining what the result should be.

In addition, the opposition spokesperson has advocated a first-past-the-post system for the City of Melbourne, although this is not a system — —

**Hon. Philip Davis** — On a point of order, President, as entertaining as the minister might find this, I do not think it is appropriate for the minister to be talking about what opposition members happen to have said or expressed in context about their policy. The point is that the question is a matter for the minister to address within government administration — and in case the minister does not understand it, the opposition is not in government and therefore has no influence over the day-to-day administration of the local government department and the Local Government Act.

**Ms BROAD** — On the point of order, President, I can assure the Leader of the Opposition that I understand very well that they are in opposition and we are in government. In answering the member's question about local government elections, it seems to me it is legitimate to draw attention to alternative views, however sensitive the opposition might be about them.

**Hon. Bill Forwood** interjected.

**The PRESIDENT** — Order! I ask Mr Forwood to desist from interjecting while the President is on her feet. The minister has a minute and a half to respond. The question referred to democracy in local government and alternative views, and as long as the minister stays within her portfolio, I will allow her to

respond to the question. I will ensure that she responds to the question and does not stray outside that.

**Hon. Philip Davis** — On a further point of order, President, I am not aware that the question contained a phrase in relation to alternative views, and in that case I do not think it is appropriate for the minister to be waxing lyrical about views expressed by members of the opposition.

**The PRESIDENT** — Order! I make a point of taking notes down of questions that are asked, and there was reference to that. I think that is where the minister referred to the opposition's view on whether postal votes or attendance votes were given. The minister has responded to that, so I ask her to conclude her answer in the time allocated.

**Ms BROAD** — In the government's view, preferential voting is a tried and true system of counting votes used in federal and state elections, and it is certainly our intention to continue with that method of counting votes in single-member elections, unlike clearly the view of the opposition, which wishes to move to a very undemocratic method of counting at elections.

Unlike those opposite, the Bracks government has always maintained that the Victorian electorate is pretty good at working out these things for itself. It is not a matter for me as the local government minister or for those opposite to second-guess their decision and put up barriers to people's democratic rights to participate in these processes.

As well as offering congratulations to all candidates who stood and were elected, I also wish to extend my congratulations in anticipation to all those mayors who will be elected, many of them this evening, in the 25 councils that went to election. I would also like to place on record my congratulations to John So on his re-election to the position of Lord Mayor of the City of Melbourne. I think it is fair to say that his victory is a testament to his hard work and effort as leader of our capital city council over the past few years.

## Gascor: financial reporting

**Hon. BILL FORWOOD** (Templestowe) — My question without notice is to the Minister for Finance, Mr John Lenders. I refer to page 152 of the Auditor-General's report on the results of the 30 June financial statement, which details the stuff-up over Gascor's accounts. What action has the minister taken in response to the Auditor-General's findings?

**Mr LENDERS** (Minister for Finance) — Again I welcome the question. I welcome questions on anything to do with my portfolio. As I listened to Mr Forwood's question I flicked to the report, which has been brought into the chamber since question time started. I have not had a chance to read right through it at this time. I repeat my earlier comment that any recommendation of the Auditor-General is picked up in my annual report to Parliament — that is, the response from the Minister for Finance to reports of the Auditor-General. It is a fairly descriptive title. That report will definitively go through exactly what the government has done on each and every individual report. I am happy to more quickly take this one on notice for Mr Forwood and get a response to those specific ones, or, after question time when I have had a chance to read it, to come back to him with a more immediate response.

However, as I said, the Auditor-General makes hundreds and hundreds of recommendations to various parts of government and to various ministers. Unlike any previous government of any political persuasion, this government sweeps them up and puts them all together and gets a definitive response from ministers and departments. These come to me as Minister for Finance, and I report to the Parliament.

**Hon. J. A. Vogels** interjected.

**Mr LENDERS** — I take up Mr Vogels's interjection of sweeping them under a big carpet. I can assure Mr Vogels and the house that we have an Auditor-General who we have given powers to; we made him a constitutional officer. He is not an officer of the Department of Premier and Cabinet. He is presided over by the Public Accounts and Estimates Committee, chaired by the parliamentary secretary at the time — he was not nobbled as happened under the last government. We have given him powers and independence. We have given him a greater budget and made his only accountability ultimately the Public Accounts and Estimates Committee of this Parliament.

We do not sweep things under a carpet; we sweep them out into the public. We sweep them into an annual report so that every member of this Parliament and every member of this house in the next few weeks will see every single Auditor-General's report from the last financial year responded to item by item, clause by clause — what the Auditor-General recommended, what this government responded to and where we are going in the future. We are open and accountable. Yes, I admit to the human failing that I have not memorised every single document that comes to me as a minister under the 72 acts of Parliament I am responsible for,

but I am happy to take that specific one on notice for Mr Forwood and get back to him.

*Supplementary question*

**Hon. BILL FORWOOD** (Templestowe) — The Auditor-General found that on privatisation the directors of Gascor went out of office and no-one can sign the accounts and therefore the accounts cannot be audited; therefore the accounts cannot be brought before the Parliament. The undertaking I seek from the minister is: will he ensure that somehow or other the final accounts of Gascor are presented to the Parliament?

**Mr LENDERS** (Minister for Finance) — Yes.

## Electricity: Hazelwood plant

**Hon. J. G. HILTON** (Western Port) — My question is for the Minister for Energy Industries, the Honourable Theo Theophanous. Can the minister advise the house of the progress of negotiations with the owners of the Hazelwood power station over its future coal supply, and is the minister aware of any alternative policies?

**Hon. T. C. THEOPHANOUS** (Minister for Energy Industries) — I thank the honourable member for his question. I know he has a big interest in issues around greenhouse gas emissions in this state. The question is a good one, because it allows me on the one hand to outline what the government is doing and on the other hand to identify what the opposition's position is in relation to it. It allows me to outline the responsible approach which the government has taken to securing a long-term future for Hazelwood power station and its 800 employees.

I can inform the house that discussions are continuing with the owners of the power station over the basis on which Hazelwood will get access to a further supply of coal to keep it running through to 2028.

**Hon. P. R. Hall** interjected.

**Hon. T. C. THEOPHANOUS** — I advise Mr Hall that those discussions are not easy, but they are certainly taking place in a sensible manner and should allow us to achieve a balanced outcome for the economy and for the environment. That is our aim. Discussions are also continuing with the workers at the power station and not just the owners, because they have a huge stake in what happens down there as well.

Recently, at the invitation of the members for Morwell and Narracan in another place, I visited the power station again, and I was very pleased to discuss the future of Hazelwood with its workers. I spoke to more than 200 workers who were gathered and who were very interested to hear the government's view. Let me tell you that explaining the government's policy to 200 workers from Hazelwood is certainly challenging, but they appreciated the tough issues that were involved for the government. They appreciated that we have some tough choices to make. They also appreciated that we have to get the best deal for Victoria to support our growing economy, while at the same time protecting the environment.

Shortly after my visit Mr Philip Davis also visited Hazelwood. He did not meet with 200 workers, as I did, and he did not answer questions about what the opposition would do in similar circumstances. He did not do any of that. All he did was sneak in like a mangy dog and sneak back out again.

**Hon. Philip Davis** — On a point of order, President, I ask for a withdrawal.

**Hon. T. C. THEOPHANOUS** — I am not sure which part the member wants me to withdraw.

**The PRESIDENT** — Order! The Leader of the Opposition has taken offence, and I ask him to withdraw.

**Hon. T. C. THEOPHANOUS** — I withdraw the comment. I go on to say that this opposition leader snuck into Hazelwood because he was not prepared — —

**Hon. Philip Davis** — On a point of order, President, the minister is making offensive remarks about the deportment of the Leader of the Opposition in his role as a parliamentarian, and I ask him to withdraw.

**Hon. T. C. THEOPHANOUS** — On the point of order, President, it is appropriate during debate on an issue like this for me to highlight the — —

*Honourable members interjecting.*

**The PRESIDENT** — Order!

**Hon. T. C. THEOPHANOUS** — Okay, let me rephrase. Relax; just relax! It is appropriate in answering the question from the honourable member, which asked me to outline alternative views and alternative approaches, for me to identify the difference between the opposition's approach and our approach. My approach was to — —

**The PRESIDENT** — Order! The minister should not debate the point of order. He should raise his point of order.

**Hon. T. C. THEOPHANOUS** — I am simply pointing out that I have not said anything that was offensive. The member, as I understand it, has not claimed that it is offensive, but if he is claiming it is offensive my comment about sneaking in — —

**The PRESIDENT** — Order! The minister should not debate the issue.

**Hon. T. C. THEOPHANOUS** — Can I indicate that the issue is that the comment must be objectively offensive and not simply that the member decides that it is offensive. I put to you, President, that my comment in trying to highlight that I was prepared to confront the workers and he was not, is not offensive.

**The PRESIDENT** — Order! Enough of debating the point of order! I have asked the minister twice not to debate it and I have a problem with his not following the directions of the Chair.

**Hon. Philip Davis** — Further on the point of order, President, I am seeking a withdrawal of the offensive remarks on this basis: the minister has made innuendo about the Leader of the Opposition sneaking around. The fact is that the Leader of the Opposition was visiting the site at the request of Hazelwood, had arranged the visit a month before and the minister invited himself 24 hours before — —

*Honourable members interjecting.*

**The PRESIDENT** — Order! I say to the Leader of the Opposition, as I said to the minister, he should raise the point of order and not debate the issue.

I refer members to previous rulings by my predecessor, and those going back to 1992, that the Presiding Officer makes a judgment on whether there are grounds for withdrawal, debate can be curtailed by a request for withdrawal that should never have been made, and in determining whether there are grounds for withdrawal the President assesses whether the remark is objectively offensive. Based on the comments made by the minister and by the Leader of the Opposition in his point of order, the Leader of the Opposition says they are offensive and I ask the minister to withdraw. He can rephrase the comments, but with respect to indicating how a member presented himself to an establishment, the descriptive words used by the minister should be withdrawn and I ask him to do so.

**Hon. T. C. THEOPHANOUS** — In deference to you, President, I withdraw the comment. But I must say that this opposition leader did not have the guts to go down there and talk to the workers.

**Hon. Philip Davis** — On a point of order, President, this house has become a rabble and the example that a senior minister of the Crown is setting today is an embarrassment to the Parliament of Victoria. President, I ask that you direct the minister to withdraw his previous remark.

**Hon. T. C. THEOPHANOUS** — President, you have finished saying that the remark has to be objectively offensive. Now this is a matter of judgment, but — —

*Honourable members interjecting.*

**The PRESIDENT** — Order!

**Hon. T. C. THEOPHANOUS** — On the point of order, President, I would put to you that this remark is not objectively offensive and is used many times and consistently in this house, and there is plenty of precedent for it being used without points of order of this sort being taken. The member should at least be prepared to cop some level of debate in this house.

**The PRESIDENT** — Order! I have asked the minister not to debate points of order. If he continues to do so, I will invoke sessional orders on a minister, which I am not wanting to do. If, however, he continues to disregard my directions from the Chair about debating points of order — and that goes for both sides — I will have no option. When a member raises a point of order members should not debate the point of order. They should raise their points and then sit down.

**Hon. B. N. Atkinson** — On the point of order, President, thank you for that past ruling in terms of debating points of order. I put it to you in the context of the question time that the problem here is that the minister is also debating in his answer to the question. That is the issue — not that he is talking about facts of matters but that he is being very subjective in this manner and debating the answer to the question, and his answer is not relevant to the question that was asked.

**The PRESIDENT** — Order! Again I refer members to previous rulings by my predecessors which refer to a member believing there is validity in the exception taken. I believe the Leader of the Opposition is valid in his exception. The words used by the minister about the Leader of the Opposition not having the guts to enter a building are to be withdrawn. I ask the minister to withdraw.

**Hon. B. N. Atkinson** — Don't cancel the days in the week before Christmas, you guys!

**The PRESIDENT** — Order! I do not like interjections flying across the chamber after I have just made a ruling to the minister to take a certain action, especially interjections from my left when I am assisting his leader. If the member wants the minister to do as I have directed he had better stop interjecting and allow him to do so. Idle threats thrown from one side of the chamber are not helpful.

**Hon. T. C. THEOPHANOUS** — In deference to the Chair I again withdraw the comment I made. I go on to say that this opposition leader did not have the courage to go and confront the workers and talk to them about their future. He did not have the courage or internal fortitude to go and confront the real people down there. All they did when they were in government was sack workers. He did not go and talk to them. Members opposite have absolutely no credibility; they embarked on a policy of sacking workers in the Latrobe Valley. That is all they ever did, and that is why he did not have the courage to go down and talk to them.

## Hospital: funding

**Hon. D. McL. DAVIS** (East Yarra) — I direct my question without notice to Mr John Lenders, Minister for Finance. I refer him to the Auditor-General's report and recommendation 5.1 where he said, consistent with previous reports, that:

> ... the Department of Human Services in conjunction with the Department of Treasury and Finance reassess the current method of funding public hospitals. This reassessment should consider providing depreciation funding to hospitals to maintain their existing infrastructure.

Will the minister accept the Auditor-General's recommendation and undertake this vital reform?

**Mr LENDERS** (Minister for Finance) — It is an absolute delight to have the opposition interested in the Auditor-General's report and asking questions about it.

**Mr Smith** — It is novel!

**Mr LENDERS** — Yes, it is novel. This is part of the accountability to Parliament, and it is something I welcome. The Treasurer and I have different parts of responsibility for the overall policy on the capital appreciation charge. It is obviously something the government looks at on an ongoing basis, because this government is all about the sound financial management. This government is determined that issues like the appropriate capital levels in any of our important infrastructure projects are adequately met. This government, keen on sound financial government, looks to balance its books, to dot the i's, cross the t's and get the debits and credits matching. That is why this government does not make crazy voodoo promises about funding out of the never-never roads that cannot be funded and things that mean you cut services. We are serious about that.

**Hon. Bill Forwood** — Can you explain what getting the debits and credits to match will do?

**Mr LENDERS** — I take up Mr Forwood's interjection. I remember in basic accounting at high school a book called *Debits and Credits,* so I guess I drew an allusion to it to assist in the process of educating Mr Forwood. But clearly he does not need that. His time on the Public Accounts and Estimates Committee has equipped him well.

The material issue Mr David Davis raises is how do we manage this and where does the Auditor-General's advice come in. Certainly the area is in my portfolio of responsibility — the overall reporting and ongoing work with the Treasurer on the Financial Management Act to make sure that we prudently allocate money for future liabilities whether they be capital or recurrent are issues of concern to me.

The issue within individual hospitals is one that I will obviously as a member of government pay attention to, but in the first instance it should be a question directed to the Minister for Health in the other place. My advice to Mr Davis, as it has been previously, is that there are ways and means by which he might do that. But certainly leaving aside the immediate response — —

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

**Mr LENDERS** — I take up Mr Davis's point about joint departments. Mr Davis does not seem to understand about the administrative arrangements in this government that any reference to the Department of Treasury and Finance could perhaps include the Treasurer's responsibility or the Minister for WorkCover's responsibility. There are multiple ministries within the Department of Treasury and Finance; each of them has different parts. Even with the Financial Management Act, to which Mr Forwood referred, some sections are administered by the Treasurer, some are administered by the Minister for Finance and some are administered jointly.

My major point remains that we on this side of the house take seriously any advice from the Auditor-General. The immediate reporting of that will be from the portfolio minister at stake. Clearly my responsibility as Minister for Finance is overarching

and involves a sweep through at the end of the year to ensure that every minister has responded to an Auditor-General's request and that none slips through the net. That is my first response.

Secondly, on the individual sections of the Financial Management Act I will always look at those, and as part of any advice from the Auditor-General on how we manage these, I will look at them in general terms, but the specific individual response on these as always remains that of the Minister for Health in the other place.

*Supplementary question*

**Hon. D. McL. DAVIS** (East Yarra) — The minister again attempts to dodge what is legitimately part of his responsibility. I accept that this is a responsibility across the Department of Treasury and Finance and that it has responsibility in the Department of Human Services, but the Auditor-General is very clear. He wanted a joint review of these areas, and the minister is clearly not prepared to accept that point. Equally the Auditor-General made the point in his report at page 74:

> … hospitals charged depreciation of $222 million compared with $218 million in 2002–03.

There is debate between the Auditor-General and the Department of Human Services and the Department of Treasury and Finance about the proper treatment of depreciation. I want a fair indication from the minister that he will push to ensure that there is a review, as the Auditor-General requested.

**Mr LENDERS** (Minister for Finance) — At risk of Mr Atkinson calling me patronising, I remind Mr David Davis, firstly, that there is a thing in the Westminster system called cabinet government where what individual ministers do or do not do in cabinet or a cabinet committee is something that is confined — the deliberations of the Kennett government are closed to this government for all time — for 30 years. So what I do in or outside cabinet committees is something that I am not going to be discussing with Mr David Davis before I discuss it with my cabinet colleagues. However, I can assure him that I will not be indicating to him at any time what I do or do not do in cabinet. Let us get that clear.

Secondly, we will take on board the issue of the Auditor-General's advice on financial policy. We are keen about accounting standards, we are keen about accountability and we are keen about economic responsibility. We listen, we act and we respect the Auditor-General.

## Consumer affairs: real estate information service

**Hon. S. M. NGUYEN** (Melbourne West) — My question is to the Minister for Consumer Affairs. With the introduction of legislative changes to prohibit dummy bidding earlier this year, can the minister please advise the house how the Bracks government is helping Victorians in regional areas learn more about the buying and selling of property?

**Mr LENDERS** (Minister for Consumer Affairs) — I thank Mr Nguyen for his question.

**Hon. D. McL. Davis** — This is earth shattering!

**Mr LENDERS** — I take up Mr David Davis's cynical comment that this is earth shattering. I am sure many people in regional communities will have bitter memories of those opposite who said regional communities were the toenails of the state. Those opposite may have acted on some inane policies, but they certainly did not listen.

As I have said often in this house, there are a number of challenges in how we get a message out to consumers, and I am sure Mr Olexander could cite these very well. One challenge is that we make markets work and put laws into place to protect consumers. The dummy bidding laws that Mr Nguyen referred to were certainly among those, so the government set the scene. The second scene is that we protect individual consumers when they are vulnerable. The Estate Agents Resolution Service was an innovation of the Bracks government, I believe, under my predecessor Ministers Thomson and Campbell. The third area of educating consumers is by far the toughest because we have to engage the interests of people at a particular time.

One of the ways we seek to do that is to go out to regional communities with what we call our real estate roadshows. A real estate roadshow is basically where you have representatives from Consumer Affairs Victoria, the Estate Agents Resolution Service and the Law Institute of Victoria. I was in Mildura recently and we had a local lawyer present. We have also had roadshows in Bendigo, Ballarat, Geelong and the Latrobe Valley. There is a representative from the Law Institute of Victoria, a local real estate agent and someone from Archicentre. The community is invited to come along and each speaker is allowed to present for 10 minutes. Mercifully, I as the minister present for less than 10 minutes because the aim is to get people in touch with these people.

It is extraordinary how regional communities, as in metropolitan Melbourne, like the service because it gives them a chance before they make an investment in their home, which is the largest single financial transaction most people will make in their lifetime, to get advice. For example, when I was in Mildura people asked questions of a local architect about issues of rising damp, which Mr Bishop would know is less of a problem than in metropolitan Melbourne; about wiring in the house and whether it can be done by a legitimate electrician or someone else; and about what you would do if the brickwork cracks. They asked the member of the Law Institute of Victoria about contracts and what section 32 statements are, and asked the Real Estate Institute of Victoria about the market.

Earlier this week in Caulfield Mr Scheffer chaired one of these meetings with me. Once again we heard the same questions. We reach out to regional Victoria to provide this service. This service is being trialled. We are serious about how we at a critical time can get consumers to come to us and how we can assist in coordinating information that is vital to them. I assure the house that probably one of the most relevant and interesting things in my time as a minister is that consumers who are about to spend $300 000, $400 000 or $500 000 on a house are taking advantage of a government service where they have advice from a panel of experts for no charge, unlike Henry Kaye and some shonks.

That is where the government is coming from, and why it is extending this service into regional Victoria. We now have five separate locations in regional Victoria and one in metropolitan Melbourne. We will continue to look at new ways of doing this because we listen, act and assist consumers. We are consistent in our policies, unlike those opposite who cannot make up their minds about Scoresby, for instance. We are consistent: we deliver, we act, and it is good for consumers.

## ENERGY LEGISLATION (AMENDMENT) BILL

*Second reading*

**Debate resumed.**

**Hon. C. D. HIRSH** (Silvan) — I was saying before the luncheon break that it is a pity that we have to have the protections that the bill provides. It is a pity that electricity and gas were privatised. My views as an Independent will not necessarily agree with either party, and on this legislation they generally do not because I do not believe in competition policy for and privatisation of essential services. However, given that they have been privatised it is important that consumers be offered every protection. Because of that it is important that the safety net be extended, particularly in terms of publishing obligations on the Web, which is better than the expensive shiny pieces of paper that come with the bill, compensation for illegal disconnection, and the removal of fees for late payments.

The idea of offering a discount for early payment is a good one because many people do not pay the utilities bills even when they can. If you get a small discount most people would pay the bill sooner. The control of early exit fees is a good thing so that people do not get into problems as they have with mobile telephone accounts where if they want to get out of a contract early, they are up for a lot of money. I strongly support the regulation and disallowance of prepayment meters, which are a trap. An overseas friend of mine had a prepayment meter and used to spend the last two or three days in winter before payday having to wear an overcoat and gloves around the house because they could not afford to put the gas on.

Generally speaking, given the situation, the bill is useful. I would like to see it go further, but it certainly will help protect consumers who have difficulty in paying so that they continue to have the service available to them. People should be able to pay on a fortnightly basis as they go. They could pay at a facility like a post office, perhaps an electricity company, or even online. Instead of having to pay a $150 bill when it comes in, they can pay a few dollars each fortnight when they can afford to do so.

I support the bill. My views, which are not those of the Labor Party, are views put to me by my constituents to whom I have spoken extensively. I urge members to ask the community whether they want privatised utilities. They did not want them when the former Kennett government introduced them, and they still do not want them. In the meantime these protections for consumers are worth supporting.

**Ms ROMANES** (Melbourne) — I am pleased to have the opportunity to speak briefly on the Energy Legislation (Amendment) Bill. I am mindful of the considerable changes that have taken place over the last five years since the Bracks government came to office and was faced with the legacy in 1999 of a privatised electricity industry. I am also mindful of the efforts to manage that industry fairly and efficiently in that period.

The privatised electricity industry that the Bracks Labor government found in place in 1999 left Victorians highly exposed to market forces and competition, and also to open slather on prices. With full retail contestability looming, there were very few protections in place for the Victorian community. The government has worked hard over the last five years to bring some balance into the utilities sector and to look at reasonable protections for members of the public while at the same time having a transition period to more effective competition in the energy sector.

I am reminded that one of the surprises for the Bracks government when it was first elected was finding that there had been no provision by the previous government for ensuring security of supply of electricity resources to the community. That very basic undertaking had been missed by the previous government. It has been an objective of the Bracks government to make sure that there are protections of various kinds. One of those, for example, has been putting in place subsidies for people who are purchasing electricity in rural and regional areas to make sure that there is some equalisation of the burden across the state.

In 2001 we introduced the safety net, with price protection through the mechanism of the Governor in Council. We also introduced the obligation to offer to supply and sell electricity and gas to domestic or small business customers at a particular price and terms and conditions protection under which a safety net energy supply contract must be consistent with terms determined by the essential services commissioner. Through those three key elements of the safety net provisions — price protection, the obligation to offer energy to customers, even if they are not — —

**Hon. Andrea Coote** — Acting President, I draw your attention to the state of the chamber. There is no quorum.

**Quorum formed.**

**Ms ROMANES** — I was talking about the safety net provisions put in place by the Bracks Labor government to protect consumers, and in particular vulnerable consumers, and to make sure they have access to power supply. The safety net provisions are due to sunset on 31 December 2004, which is one of the reasons why we are dealing with the bill before the house today. Another reason is because more recently the essential services commissioner has examined how effectively retail competition in the Victorian electricity and gas industries is operating. The commissioner has made various recommendations, some of which have been picked up by the government and some of which have not.

We have before us a suite of provisions that extend consumer protection while encouraging greater competition in some areas. This is the most comprehensive set of energy consumer reforms undertaken by the Bracks government. These were not undertaken without considering the impact on various stakeholders. Included in this bill are reforms that address specific issues that have arisen as the market has evolved. We should be aware that the regulatory framework for the electricity and gas industries is a work in progress. The regime or framework within which they operate, and the effectiveness thereof, is continuously evolving and continuously in need of review and refinement.

Other speakers have mentioned in more detail the various changes that are proposed under the legislation before the house this afternoon. Pro-competition initiatives include the obligation to publish the market offers by the different retailers on a web site to complement other forms of information about prices offered by retailers that are below the price path negotiated by the Minister for Energy and Resources, Mr Theo Theophanous, at the end of last year. That requirement to publish on the web will make it easier for consumers to make informed choices in the future.

The other matter which is a reasonable pro-competition initiative, and with which industry agrees, is the move to prevent early exit fees so that we do not have a similar situation to what happened with mobile phones, where companies imposed huge fees if you wanted to switch to a competitor. The Bracks government wants people to be able to find the best deal and not to be stuck in contracts with huge exit fees and have to confront those sorts of barriers.

Other measures in the bill, such as compensation for illegal disconnections, the setting of disconnection procedures and late payment fees, have been raised again and again by different consumer groups. Even this week I noticed in the *Melbourne Times* at page 17 an article by Ben Schneiders which draws attention to the release of a report last week titled 'Access to Energy and Water in Victoria' by the Consumer Law Centre of Victoria (CLCV) and the Consumer Utilities Advocacy Centre (CUAC). It highlights examples of utilities breaching their legal obligations when disconnecting customers in financial hardship. It also cites the industry regulator, the Essential Services Commission, as providing information which informs us that:

> ... in the first six months of 2004 there were significant increases in electricity and gas disconnections.

Hence measures have been included in the bill to make sure that any moves by retailers to disconnect any consumers must be undertaken in accordance with the energy retail code and the process that is outlined there. Appropriate notices must be given and attempts must be made to help consumers who are having difficulty with payments over time to adopt easy payment plans and have a process which will involve an assessment of the ability of the consumer to pay.

It is important not just to prevent disconnections contrary to those procedures through the disincentive from the penalties that are in the bill, but to encourage the retailers to undertake those processes better to assist those who have difficulty in this area.

There was extensive debate on the pros and cons of this matter, and I am sure that is an issue that the opposition will take up in more detail at the committee stage at the end of the second-reading debate.

One problem this bill has given the government the opportunity to rectify is with bulk hot water. It has been discovered through complaints made by consumers who are purchasing their electricity through a bulk facility — perhaps at an apartment high-rise tower or an apartment building — that the conversion rate of gas to electricity from a boiler has been fairly arbitrarily decided on by the retailer. Therefore the bill provides a better process for deciding on the price of energy in those circumstances.

The bill and the reforms in it are targeted and innovative. They are endorsed by various consumer groups such as the Victorian Council of Social Service (VCOSS), St Vincent de Paul Society and the Consumer Law Centre. They provide further changes and support for the industry to increase its penetration of the full retail contestability cohort, and they provide support in a range of ways to industry to further improve retail contestability and the efficient operation of the particular energy market that we have to operate within.

Before I conclude, it is important to say that the government does not have the luxury of a bit each way, like the opposition has, on this. In the end the government has had to make a judgment about these various issues that keep arising and have to be tackled. The government has to make a judgment about how best to protect the most vulnerable of consumers in our society as well as make sure that in the distribution of the burden of that — whether it is through the price path, or the subsidies to rural Victoria, or the assistance to retailers with the burden of late payments, or whatever the various price levers are — it achieves some balance between the different interests and needs of the various parties who are the customers and providers across Victoria.

In the end what is driving the provisions of the bill is the desire to get a sensible balance between protecting consumers while continuing to encourage greater investment and competition in the energy sector. That is a very important part of what the Bracks government has been on about, because over many months in the 54th Parliament we faced questions about whether there would be security of supply for the future. The measures put in place by the Bracks government have ensured that we are well on the way to securing and protecting the industry, as well as to protecting consumers across the state.

**Hon. T. C. THEOPHANOUS** (Minister for Energy Industries) — I want to take the opportunity in my contribution in reply to address some of the issues that have been raised by honourable members during the course of the second-reading debate and to put on record the rationale of the government with this piece of legislation.

I begin by saying that I regret not having been here to hear the entire contribution by the Honourable Bill Forwood. For his information, I was actually involved in another meeting to deal with an issue which he raised with me earlier today. So I regret not being here for the first part of his contribution.

But I must say that the reason I am somewhat, I guess, emotional in debating this particular legislation is that I have been working with it, living and breathing it for a number of months now. I have done so in an attempt to try to put in place a framework which protects consumers. There will always be balances that one has to take and matters of judgment that one has to consider. So I can assure Mr Forwood and all other honourable members that although this was certainly not an easy process, it was one that had to happen if we were to put in place a set of protections for Victorian energy consumers.

In fact there are two ways of looking after consumers in the energy sector in this state, which is certainly what I have tried to do since I have been the Minister for Energy Industries. One of those ways is through encouraging competition — bringing as much competition as possible into the market so consumers have choices and are able to empower themselves via that process. That is why we were looking at things like the introduction of interval meters; that is another

process of empowering consumers by adding to competition. I am pleased to say that the churn rate has more than doubled — it has probably tripled — during the time I have been the minister. At the moment it is running at well over 20 per cent, which is a phenomenal rate. We have got 14 retailers now operating in this state, which means there is a wide range of choices for consumers.

One way of looking after consumers is by bringing in competition. The second way of looking after consumers is by bearing in mind that not all consumers can gain the benefits of that competition. Some are vulnerable; some are not in the position of being able to take up the various offers, and so on. I guess the one beef I have with the opposition — and perhaps this is what has added to the heat in this debate — is the fact that I know people like Bill Forwood recognise how difficult it is to bring about that balance. That is why the opposition does not oppose the legislation and will not vote against it. But you cannot have it both ways. You cannot have a bob each way. Opposition members should not on the one hand be able to come in here and criticise the government in a whole range of ways, which allows them to then go to the retailers and say, 'We got stuck into the government because it was doing all these nasty things to you, and we told it that it should not have a ban on late payment fees or $250 fines' and so on and so forth, and make heroes of themselves by going to the industry groups and pointing out what they said during the course of the debate, without on the other hand having to bear the odium of voting against the legislation and facing the consumer groups about the consequences of doing so. You could say that is the difference between being in government and being in opposition — that is an answer — but excuse me if I feel as though it is a bit unfair to have to sit here and listen to the criticism and have to explain to the industry the government's rationale for doing it, while having to also deal with the consumer groups and balance all the myriad issues during the course of developing this bill.

Let me just say something about the government's history on this. It should not be forgotten that before the government came to power we did not even have an Essential Services Commission — —

**Hon. Bill Forwood** — We had the Regular-General.

**Hon. T. C. THEOPHANOUS** — We had the Regulator-General, but the Regulator-General did not have the social focus which the government provided with the change to having an Essential Services Commission. The previous government did not have an energy and water ombudsman; it did not have an ombudsman at all in the energy sector.

**Hon. C. A. Strong** interjected.

**Hon. T. C. THEOPHANOUS** — These are some of the differences, and I will come to you, Mr Strong. More importantly, it did not seek to protect vulnerable people in the community. I will give one example of one big group which was not protected under the previous government's policy and which we have protected through our consumer safety net and other mechanisms — that is, the people in regional Victoria. What we have done over the last four years is provide more than $200 million in direct subsidies to overcome the imbalance in the distribution costs in regional Victoria as against metropolitan Melbourne.

We have brought in an Essential Services Commission, an energy and water ombudsman, a network tariff rebate and a whole range of consumer safety net legislation to protect vulnerable consumers in our community. That is the approach that we have taken. Moreover we are doing this in the context — and I know the industry understands this — of wanting to move to a system of national rules. That is why we supported national regulation and establishing a national regulator in Australia. In fact Victoria played a very important part in trying to bring the Australian energy regulator into play in Victoria. Ultimately the Australian energy regulator will also be required to regulate the retail end of the market. When it does that we want to be in the position to have Victoria's rules to protect consumers adopted nationwide. We want the best consumer rules adopted nationwide. We do not want to have the deficient rules and consumer protections of the other states foisted onto Victoria.

This is all part of a very complicated process involving a range of issues. I respect the fact that some members of the opposition, particularly Mr Forwood, have done a considerable amount of work on this bill. I respect that, and I respect the fact that at least he recognises from his point of view that difficult questions of judgment are involved in developing a piece of legislation like this. I make no apology for the fact that we have decided to extend the safety net through to 2007. I make no apology for the fact that we have put in place an obligation to publish, so for the first time consumers will be able to simply go to the Net to compare the different deals that might be on offer.

I make no apology for the fact that we are bringing into play compensation for wrongful or illegal disconnection. If it is true that these disconnections are not improper, as some members here have tried to

indicate — and I think Mr Strong was one who made some comment along these lines — and that retailers are just following their processes and disconnections are not done improperly, wrongfully or illegally, then no retailer has anything to fear because they will never pay the $250, and I will be happy, as the Minister for Energy Industries, to come in here and report that not a single fine was issued because there were no wrongful disconnections.

But I am not going to say, beforehand, that we should not have a penalty for the times that this does happen, and I would have thought that everyone in the house would understand that. An amount of $250, despite what Mr Strong might say, is a reasonable amount for the inconvenience of having your power disconnected in an illegal way by somebody.

We make no apology for bringing that into play, and I do not think it will place a huge impost on the industry because I do not think there will be all that many each year, and part of the reason for there not being all that many is because we have included that penalty. It is a cycle.

In terms of the concern about the prohibition on late payment fees — yes, it is true; this went through a process in relation to the essential services commissioner; he brought down some findings in relation to this matter, and the government, as is our right to do, looked at those findings from the essential services commissioner, considered them and had great difficulty in this notion of being able to differentiate between a case where somebody is genuinely unable to pay and who is therefore late in his payments versus somebody who is simply trying to use the system to extend their payment time.

Even the essential services commissioner indicated in his findings that this was a difficult thing to determine. I have some of his findings of the commissioner here, and he tries to make a distinction that the late payment fee should be waived where the small retail customer has contacted a welfare agency or support service for assistance. That is one possibility.

Another is where payment or part payment is by a utility relief grant. The third is on a case-by-case basis as considered appropriate by the retailer or the energy and water ombudsman. That is not an appropriate level of definition for such an important decision. So we decided that until and unless we are able to develop some sort of way in which we can actually distinguish those people who are simply using the system, then it was not appropriate to bring this in. Moreover I would also say it is not just about that; it is also about the fact that we had negotiated a four-year pricing agreement, and we did not negotiate that four-year pricing agreement on the basis that there should be a further windfall to the retailers by a decision like this of the Essential Services Commission which allowed them to charge an additional fee, essentially, which was not part of the price path that we have negotiated.

They did not come to us and say, 'We will give a reduction in prices'. They just wanted the windfall. So that is the second reason why you would not, as responsible minister, accept that.

If you look at all the offers by the companies out there, most of the companies out there making market offers are saying one thing — that is, this is how much we will charge you, but if you pay early, we will give you a reduction on what we are charging you. So they are offering incentives rather than penalties, and we are encouraging the industry to do that because that is a much fairer way to deal with this particular issue.

There are a lot of other parts to the bill, and I would be happy to discuss them during the committee stage.

**Motion agreed to.**

**Read second time.**

**Committed.**

*Committee*

**Clause 1 agreed to.**

**Clause 2**

**Hon. BILL FORWOOD** (Templestowe) — Before I get to clause 2, I would like to bring to the minister's attention that the energy and water ombudsman was established as the electricity industry ombudsman in 1996 and was expanded in 1999 to include gas and in 2001 to include water.

In relation to clause 2, which is the commencement clause, it says apart from sections 9 and 20, which are the two sections dealing with publishing prices on the net, that the act comes into operation on the day after it receives royal assent. Can the minister give the committee some indication of when he thinks this will all commence?

**Hon. T. C. THEOPHANOUS** (Minister for Energy Industries) — I am happy to inform the member that royal assent is scheduled for Tuesday or Wednesday of next week, assuming it is passed by this house.

**Clause agreed to; clause 3 agreed to.**

**Clause 4**

**Hon. BILL FORWOOD** (Templestowe) — The minister will be aware that clause 4 is the one dealing with the capacity of the Governor in Council, by order published, to set the classes of customers in relation to late payment fees, exit fees, and prepayment meters. If the bill is to come into effect next Tuesday, I presume the government now has some idea of what the orders in council might be, and I wonder if he would like to share with the committee what the orders will be that will make this whole thing operate.

**Hon. T. C. THEOPHANOUS** (Minister for Energy Industries) — While the bill might come into effect, the regulations that can be made under it do not come into effect straight away. All that comes into effect is the power to make those regulations. As to the timing of when the regulations will be put to the Governor for consideration, that is separate timing. It certainly will not occur next Tuesday.

Clause 4 deals with the types of categories of people or groups that might be included in the order under each of those various orders that you have identified.

In relation to prohibition on late payment fees the order would include a category of persons as listed under clause 4 and could be a combination of any of those listed categories.

This is a matter for government to consider. I can assure Mr Forwood that I will be considering this very carefully in relation to each of those regulations that will be made. I will be happy to provide him or anyone else in the opposition with information as soon as decisions have been made in relation to the making of those new regulations.

**Hon. BILL FORWOOD** (Templestowe) — I thank the minister for the answer. But what becomes apparent if you go through the definitions is that although the bill will receive royal assent, it will be of no effect until the orders in council have been established. In those circumstances could the minister indicate to the committee whether it is likely to be before Christmas? Clauses 9 and 20 come in on 1 March next year. When does the minister anticipate that this will come into effect?

**Hon. T. C. THEOPHANOUS** (Minister for Energy Industries) — There are sections of the bill which come into effect immediately royal assent is given. In relation to the regulation-making powers that are provided to the minister that would be a matter for consideration by me on advice from my department. I am not sure that I am able to give time lines at this point, but I would be happy to provide them to Mr Forwood as soon as we are in a position to do so.

**Clause agreed to; clauses 5 to 7 agreed to.**

**Clause 8**

**Hon. C. A. STRONG** (Higinbotham) — There are a few issues I would like to tease out here. Clause 8 of the bill adds a series of conditions which the commission must have regard to in the case of disconnections. They are:

> (a) the essential nature of the electricity supply; and
>
> (b) community expectations that ongoing access to electricity supply will be available; and
>
> (c) the principle that the electricity supply to premises should only be disconnected as a last resort.

The minister is no doubt aware of the energy retail code. The latest one dated August 2004 sets out the procedures and conditions to be applied in the case of payment difficulty leading to disconnection. My question is: have these extra clauses to the bill been added because of any perceived shortcomings in the code as it now stands?

**Hon. T. C. THEOPHANOUS** (Minister for Energy Industries) — I prefer to put it in positive terms and say that this is an attempt to empower the Essential Services Commission to strengthen the code so that disconnections were not allowed unless as in clause 8(1A)(c) it was as last resort. It should very much be last resort. There are community expectations relating to the availability of electricity. It is an essential service. This was a way of strengthening the hand of the essential services commissioner and allowing him to have another look at the code to see whether he could further strengthen the notion that disconnections should be a matter of absolute last resort.

**Hon. C. A. STRONG** (Higinbotham) — I would like to take the minister to some of the details of the code. In essence the various processes end up with a requirement for an instalment plan as far as you go down the track. The code is fairly specific in terms of that instalment plan. At page 19 paragraph 12.2 of the code states:

> A retailer offering an instalment plan must:
>
> (a) specify the period of the plan and the amount of the instalments (which must reflect the customer's consumption needs and capacity to pay), the number of instalments and how the amount of them is calculated, the amount of the instalments which will pay the customer's arrears (if any) and estimated consumption during the period of the plan.

The words I want to go to are 'which must reflect the customer's consumption needs and capacity to pay'. I ask my question in the context of the points that are included in clause 8, particularly the community expectation of ongoing electricity supply and the last resort. My question is: is there an anticipation here that the utilities will be required to subsidise a consumer who is not able to pay? Or if the consumer is simply just not able to pay, is there no expectation that there will be a subsidy by the utilities?

**Hon. T. C. THEOPHANOUS** (Minister for Energy Industries) — There is certainly no mention either in the code by the Essential Services Commission, nor in the bill itself, as to the question of not being required to pay the debt. That is not what this is about. This is about disconnection and the circumstances under which that disconnection might occur. The Essential Services Commission has said, in its code, as Mr Strong has pointed out, that it must offer an instalment plan. That is one element of a process that must be gone through in the lead-up to a potential disconnection. But it is only one element. This clause is simply saying that the community expects any disconnection would be an absolutely last resort and the Essential Services Commission is able to frame or strengthen the code in a way that ensures that that community expectation is reached. It does not say that there is a community expectation that you do not have to pay your bills. That is not what it says. This is about disconnection, and I think it is appropriate, as Mr Strong rightly points out, because it is not an easy thing to do and we gave this power to the Essential Services Commission in the hope it can pull together a code that reflects the sentiment in this particular clause.

**Hon. C. A. STRONG** (Higinbotham) — Would I be correct in summarising the minister's answer by saying that neither these new clauses nor the term 'capacity to pay' in any way imply any obligation on the companies to subsidise any individual customer?

**Hon. T. C. THEOPHANOUS** (Minister for Energy Industries) — I do not think it implies that companies need to subsidise. I would certainly urge companies to consider, as a matter of company policy, whether in some circumstances there is no capacity to pay, and that it might be better to look at a way to draw a line beneath that, or writing off some of that debt to give a person a second chance. I would certainly welcome that, but there is no requirement for them to do that under this legislation.

**Hon. C. A. STRONG** (Higinbotham) — I thank the minister for that response. I acknowledge that, as I understand it, companies often choose of their own volition to write off debts. However, the minister has made the point that these clauses do not anticipate that being part of the law.

**Hon. BILL FORWOOD** (Templestowe) — Can the minister help the committee with what he believes 'last resort' to mean?

**Hon. T. C. THEOPHANOUS** (Minister for Energy Industries) — Mr Forwood went through one of his criticisms — and it was that of Mr Strong as well — that we were taking too many decisions away from the Essential Services Commission. In this instance I am happy to leave it to the Essential Services Commission to interpret the term 'last resort'.

**Clause agreed to; clauses 9 to 12 agreed to.**

**Clause 13**

**Hon. C. A. STRONG** (Higinbotham) — Clause 13 inserts four new sections into the act, and I will deal with three issues. Section 40B deals with wrongful disconnections; section 40C deals with prohibition of fees for late payment; and section 40E deals with regulation of prepayment meters. I wish to deal with each of them in turn, starting with compensation for wrongful disconnection. The issue I wish to tease out is the capacity to pay, which we have already dealt with there. However, the question is how these decisions will be made. I refer to a 2002 report by the ombudsman, and I would also like to put on the record that this is the same ombudsman that the minister said that he or his government set up in 1996. As I recollect, the minister was not in government at that stage, so I am not quite sure how he managed to set up the Ombudsman.

**Hon. T. C. Theophanous** — We set up the energy and water ombudsman.

**Hon. C. A. STRONG** — It is all very well to set up the water ombudsman when water was bought under the auspices of the Essential Services Commission, but I think the clear implication of what the minister was saying is that he is responsible for setting up the energy ombudsman and, of course, that is not the case.

I would like to go to the issue of what the energy ombudsman says in this report because it is important as basically these disconnection issues will finally reside with him. I will quote parts of the comments made by the energy ombudsman. He says:

> Our practical experience of these disconnection/restriction cases is that focusing only in detail on whether or not the company/authority has complied with all code requirements does not generally progress or help the issue at hand.

I will skip over a couple of sentences to cut to what are the important parts:

> For example, a customer may state that their retailer failed to provide them with an easyway card or that they were told that they could delay or reduce their payment. The company may say the reverse. Undertaking a detailed assessment of code compliance does not resolve the customer's situation ... It can also result in companies/authorities focusing solely on whether they have complied with minimum standards, rather than working towards a positive outcome.

**Hon. T. C. Theophanous** — Where is that from?

**Hon. C. A. STRONG** — That is from a report by the energy and water ombudsman entitled 'Research into disconnection and restriction cases' of November 2002. I guess the point that the ombudsman is making — and I guess it is a point that is of concern to me, because I share the minister's view — is that where people are unable to pay or are having payment difficulties, if accommodation can be reached, that is appropriate. What worries me with these disconnections and fines is that the provision will inevitably, or at least probably, encourage certain people to go down a path in the hope of getting $250 a day.

It is going to drive everybody to focus on the process. It is going to drive the utilities to keep superb records because they know that at the end of the day, if they do something wrong, there is going to be a $250 fine. If I were them I suggest my response to the legislation would be to start keeping quite superb records, record all conversations and have a wonderful audit trail to be able to assure the final investigator that the $250 penalty would not apply.

As we go to this penalty regime where will these things end up? They will not end with the ombudsman trying to broker some form of outcome for somebody who cannot pay; I suspect they will end up with the Essential Services Commission.

My first question to the minister is: will the judgment of whether the code is breached and therefore the $250 fine is due be a decision taken by the Essential Services Commission?

**Hon. T. C. THEOPHANOUS** (Minister for Energy Industries) — The answer to your question is yes, it will. It is a decision about whether there has been a breach of code.

In answer to Mr Strong's broader points, yes, I think he is correct in identifying that retailers will be much more careful. They will be careful about the audit path and they will be careful before they disconnect. They will think twice and, if that is what happens, then this particular provision will have done what we intended it to do.

**Hon. C. A. STRONG** (Higinbotham) — I simply ask again of the minister: has any discussion taken place with the Essential Services Commission or has the government done any work to assess what extra load this may put on the Essential Services Commission given that the situation, as I understand it, is that virtually none of these hardship or disconnection issues end up at the Essential Services Commission at the moment? They end up with the ombudsman. Now that these will all end up with the Essential Services Commission, have any discussions taken place regarding what extra facilities or resources the commission may need to deal with this, or has the government given any consideration to that resourcing issue?

**Hon. T. C. THEOPHANOUS** (Minister for Energy Industries) — I have had a discussion with the Essential Services Commission — a very recent one, in fact — when this issue was raised and discussed. There was no request from the Essential Services Commission to me nor was any comment made that the commission required additional resources in order to implement this particular provision. As Mr Strong has identified, the Essential Services Commission is ultimately responsible for this, but a commissioner can receive advice from the ombudsman in particular circumstances and in particular cases, and where the ombudsman has determined that there has been a breach, that advice would obviously be taken into consideration by the Essential Services Commission in deciding whether to pursue the $250 fine or not.

**Hon. BILL FORWOOD** (Templestowe) — I have a couple of questions. I wonder if the minister could help the committee by defining 'incapacity to pay'?

**Hon. T. C. THEOPHANOUS** (Minister for Energy Industries) — The Essential Services Commission has a working set of definitions in relation to capacity to pay, but if Mr Forwood is referring to this particular provision, it is about process. It is about the fact that retailers are required to go through a considerable process before they are able to disconnect an individual. With all of those issues, including capacity to pay, there are certain tests which the Essential Services Commission applies in relation to whether they have gone through the processes of determining whether there is capacity to pay, and as long as they have gone through all of those processes outlined by the Essential Services Commission, then they would avoid the fine. But if they have not gone through the processes, that

would be the circumstance where a fine could be payable.

**Hon. BILL FORWOOD** (Templestowe) — I thank the minister for his clarification in relation to that. I think that is a very important point, and it picks up Mr Strong's point that if the process is followed, and they follow the process to the letter, it is not their decision on whether a person has or has not the capacity to pay. What they have done is follow the process and that will be a defence in this relationship. The minister is nodding his head. Thank you.

I have in front of me a current business credit disconnections policy of one of the major retailers, which is a substantial document. It says, amongst other things:

> We will not disconnect a customer if any of the following conditions apply:
>
> 1. The address is registered as a medical exemptions supply address ...
>
> 2. When the disconnection relates to non-payment, the outstanding amount is:
>
> less than $100,
>
> related to an unresolved complaint,
>
> related to a pending URG —

utility relief grant —

> application (including where the customer intends to apply ...
>
> unrelated to the supply ... of gas or electricity.

It says that no disconnections can taken place on Fridays, weekends, public holidays, the day before a public holiday, and domestic customers must not be disconnected before 2 o'clock et cetera. It has a flow chart diagram that is designed to follow these processes, and later on it talks about payment assistance. It says:

> Under the retail code, we are not permitted to disconnect a customer for non-payment, until we have made all reasonable attempts to assist the customer to pay their account. This includes offering payment terms, ensuring eligible grants and concessions have been considered ...

I take it that the minister is not looking for anything different to that sort of policy. I go back to the comment he made in his summing up — that he hoped there will not be people disconnected because they follow a process like this — a process that has ultimately has been signed off by the Essential Services Commission.

**Hon. T. C. THEOPHANOUS** (Minister for Energy Industries) — As the member said it is one set of guidelines he is talking about through one retailer. What would normally happen is that assuming the ESC had signed off and followed that process — if they had breached their own set of guidelines and disconnected somebody, then obviously they would make themselves subject to a fine — which was ticked off by the essential services commissioner that would certainly be a defence. However, I hasten to refer to the debate we had under clause 4 where this bill in a sense empowers the essential services commissioner to have another look at some of these guidelines that it may have allowed in the past to see whether they fit the strengthened test that is present under clause 4.

**Hon. BILL FORWOOD** (Templestowe) — The Essential Services Commission has advised us that in the year 2003 there were 14 211 actual electricity disconnections. How many of those were illegal? How many were wrong? How many were because of incapacity to pay as opposed to other reasons?

**Hon. T. C. THEOPHANOUS** (Minister for Energy Industries) — I do not have figures available here to give the member regarding how many of these might not have followed such a process, but I can inform him that certainly the consumer groups have highlighted a number of incidents where they believe processes were not followed and people were disconnected with sometimes fairly severe consequences.

**Hon. C. A. STRONG** (Higinbotham) — I want to raise again the issue of capacity to pay, which Mr Forwood touched on earlier. The final test under the current code is the capacity-to-pay test. Somebody on a payment scheme which has been offered by a utility for them to pay off so much a week could say, 'No, I do not have the capacity to meet that $10 a week assessed payment'. In essence the customer is saying 'I cannot afford the $10 per week'. According to the checklist that Mr Forward referred to the utility could say, 'Well, we think they can afford the $10 a week'. The utility would then say, 'Okay, there is nothing we can do about this; we will have to disconnect you'. That decision will ultimately be made by the Essential Services Commission, because it is the authority, as the minister indicated, which will say, 'This disconnection was not according to the code and therefore the $250 a day fine will apply'.

Therefore the Essential Services Commission will have to develop a series of guidelines to assess the ability of a customer regarding capacity to pay. It will end up being a little bit like when you go to get a loan from the bank: the customer would be obliged to state their

financial position — their financial obligations, commitments and the money they earn and spend. There will need to be a financial assessment by the ESC of that person's ability to pay, and that must be based on evidence which must be provided. I see no other way of it being done. My question to the minister is: is that what he anticipates as well?

**Hon. T. C. THEOPHANOUS** (Minister for Energy Industries) — Obviously the Essential Services Commission in partnership with the Ombudsman in this instance has a significant amount of work to do in making the decisions the member is talking about. Generally speaking, however, it would have to approve the capacity to pay procedures and practices. The first part of the hurdle is getting a set of procedures and practices under a code which is acceptable to the Essential Services Commission. Mr Forwood read into *Hansard* one such set of procedures by one of the companies. The second part is whether in a particular situation and circumstance those procedures and practices had been followed. That is really the safeguard.

However, there will be argument, as the member pointed out, whether in a particular circumstance the practices were followed — this might be a matter of judgment and it might be that the retailer would say, 'We considered this person had a capacity to pay in this instance, and not only that, we also followed all our procedures and practices but we nevertheless disconnected them'.

The balancing act here is that you cannot just have a circumstance where simply because one side says, 'I have not got the capacity to pay', or the other one says, 'Yes, you do', it is an arbitrary decision. That is why we have an ombudsman who is also able to give an opinion. The Essential Services Commission can take that opinion into consideration in a particular circumstance as opposed to the general thing about procedures and practices and whether they were followed.

**Hon. C. A. STRONG** (Higinbotham) — I think the minister is right. The ombudsman can give an opinion, but the actual decision rests with the Essential Services Commission, as the minister has explained it. The Essential Services Commission ultimately can only make that judgment on the evidence. My question would be: is the government happy to pass whatever legislation or extra regulation is required to allow the Essential Services Commission to get from a particular customer that information as to their financial status because that information would otherwise be subject to information privacy? There must then be in the code the condition that says a customer must be prepared to make available all details of their financial status.

**Hon. T. C. THEOPHANOUS** (Minister for Energy Industries) — I would expect it would be the ombudsman who would examine the individual circumstances to which you are referring, not the Essential Services Commission. I would also expect that the Essential Services Commission would under normal circumstances accept the view of the ombudsman in those very marginal cases that you are talking about. It would then be open to the particular retailer; if they so desired, to take this matter further through legal processes, and so on, but I think it would be highly unlikely for the fine that we are talking about — $250. I have full confidence that the ombudsman would make these decisions on the best available information in an objective, impartial way.

**Hon. C. A. STRONG** (Higinbotham) — I accept that, but we can also see a situation where $250 a day over four days is $1000. If we have 20 people, that is $20 000. These things can escalate relatively quickly. Is the minister prepared to give an assurance to the committee that the government is prepared to do whatever it can to make sure that the Essential Services Commission is able to get the information it needs to make a judgment on the capacity to pay?

**Hon. T. C. THEOPHANOUS** (Minister for Energy Industries) — I cannot give Mr Strong further comfort than I have in relation to that. It is not the role of the Essential Services Commission to inquire into the private matters of individuals in the electricity industry without their consent. This is a matter much more appropriately dealt with by the ombudsman. We would expect, as I said before, that the ombudsman would make fearless and impartial decisions in relation to this.

**Hon. C. A. STRONG** (Higinbotham) — I simply reiterate the point that the minister has already told the committee that the final adjudicator of this would be the Essential Services Commission. This is a test of the capacity to pay on which the Essential Services Commission will have to make a judgment. It will have to make that judgment on the basis of certain facts. I restate my question: if we get to that situation is the government happy to do whatever it can to ensure that the adjudicator of last resort that this act puts in place is able to get all the evidence it needs to make that judgment?

**Hon. T. C. THEOPHANOUS** (Minister for Energy Industries) — I am not in a position to be able to add to the comment that I have made in relation to this. The proper role for consideration of those matters is with the

ombudsman. Yes, the Essential Services Commission is in the position that Mr Strong said, but the commission is able to draw on the opinion of the ombudsman, and would do so, and be able to make his decision on the basis of that and other known aspects of procedures and practices that have to be followed.

**Hon. C. A. STRONG** (Higinbotham) — With all respect, Minister, that will be a decision that the Essential Services Commission will make. It will not be a decision that the minister or I can make here. That is part of the commission's charter so it will make that decision. I can only hope it will have the evidence available to effectively make that judgment on the capacity to pay. Otherwise I must say I think the whole thing will start to unravel.

Perhaps I could go on to the next point I wanted to cover, which is prohibition of late fees. I know the Honourable Bill Forwood touched on these matters in the second-reading debate, but I think it is worth again considering what the Essential Services Commission report of May 2004 says on page 12:

> It was noted in the draft report that the incidence of late payment of accounts is very high in the energy industry, resulting in additional collection costs which are ultimately borne by all energy consumers, including the majority who pay on time … the imposition of late payment fees provides an incentive for those who can pay on time to do so ...

It goes on to say:

> However, the general argument for late payment fees does not necessarily apply in the case of households that are experiencing financial hardship and are therefore having genuine financial difficulty in paying their energy bills.

In the next paragraph it states:

> Having assessed these issues in the draft report the commission concluded that customers who pay their accounts late and who have demonstrated capacity to pay should be subject to transparent, cost-related late payment fees.

My question to the minister is: why should customers who have a demonstrated capacity to pay, but choose not to, not be charged late fees?

**Hon. T. C. THEOPHANOUS** (Minister for Energy Industries) — I did canvass the government's opinion on this in my response at the conclusion of the second-reading debate. I am happy to go through it again if the member wishes, but it is pretty straightforward. We do not think that distinction can easily be made. I draw the member's attention to the fact that the Essential Services Commission, seeking to make a distinction in relation to the application of this issue, said that 'vulnerable consumers may not necessarily be holders of a concession card'. I think it would be a pretty brave government that would say that people who are holders of concession cards might be subject to late payment fees. I would look forward to Mr Strong, on behalf of the Liberal Party, going out and saying that pensioners who pay their bills late should be paying late payment fees.

It is that kind of problem that led the government ultimately to say, 'We do not have this right yet and the Essential Services Commission has not provided us with an adequate policy framework for it', so we decided to apply this ban.

**Hon. C. A. STRONG** (Higinbotham) — I see that as a flimsy argument, particularly in light of the debate about the capacity to pay. The minister has made the point that he does not see a problem in assessing that. If he does not see a problem in assessing capacity to pay for late payment, then what is the difference? Are we really saying that we can assess the capacity to pay when it comes to issues of disconnections but we do not have the ability to assess a capacity to pay when it comes to late payment fees? I do not think there is much logic in that, because on the one hand you say you can do it yet on the other hand when it comes to an issue you say you cannot.

On the issue of late payment fees, I note in the water industry that interest on late payment fees is allowed under the code and the act. Does the minister intend to change the Water Act to be in line with this bill so there cannot be late payment fees under the Water Act?

**Hon. T. C. THEOPHANOUS** (Minister for Energy Industries) — My responsibilities are for the Electricity Industry Act and the Gas Industry Act not the Water Act.

**Hon. C. A. STRONG** (Higinbotham) — Is there any inconsistency between those two approaches?

**Hon. T. C. THEOPHANOUS** (Minister for Energy Industries) — I repeat: my responsibility is to look at the electricity and gas acts and to make recommendations to the government as to what I think is the best approach in relation to the energy industry. I have done that to the best of my ability, and this package is worth supporting by this Parliament.

**Hon. C. A. STRONG** (Higinbotham) — The minister is happy to say that when it is a government-owned utility, a water corporation, then he does not see any problem with it charging late payment fees, but when it is a private utility the government steps in and outlaws late payment fees. People who use and are regulated by both electricity and water regulators will see a certain cynicism in that approach:

that when it is a government-owned entity they can charge late payment fees but when it is a private entity they cannot charge late payment fees.

I turn to the next matter that deals with prepayment meters. I was fascinated by the contribution made in the second-reading debate where one member was in favour, as it were, of being able to buy energy stamps.

**Hon. T. C. Theophanous** — I think it was an Independent member!

**Hon. C. A. STRONG** — I think you are lucky that it was the Independent member. Energy stamps are exactly the same as a prepayment meter, of course. I am not sure that the Independent member understood that, but it was an interesting comment.

The second-reading speech with regard to prepayment meters says that there will be an inquiry to investigate prepayment meters, and that inquiry will make recommendations for consideration by the government in relation to any special circumstances that may exist as to their being put into place. Who will conduct this inquiry into prepayment meters?

**Hon. T. C. THEOPHANOUS** (Minister for Energy Industries) — That has not been determined by the government as yet, but it will be an expert inquiry. I will be happy to announce it at the appropriate time.

**The CHAIR** — Order! Pursuant to sessional order 14, I have to report progress.

**Progress reported**

**Business interrupted pursuant to sessional orders.**

**Sitting continued on motion of Mr LENDERS (Minister for Finance)**

*Committee*

**Resumed from earlier this day; further discussion of clause 13.**

**Hon. C. A. STRONG** (Higinbotham) — The minister has indicated that the government has not made a decision yet as to who will carry out this inquiry. I note that the Essential Services Commission for 2004 has on its work program an inquiry into prepaid meters. Is the minister aware that the Essential Services Commission has that on its work program?

**Hon. T. C. THEOPHANOUS** (Minister for Energy Industries) — It is a good question. I can advise Mr Strong that I have discussed this with the essential services commissioner and envisage that an inquiry will be established, as I outlined earlier, and that the essential services commissioner would, rather than continue to his own separate inquiry, provide support to the announced independent inquiry into this important area. He certainly will be able to do analysis, provide statistical information and all the other things the commissioner is able to do for this proposed inquiry, but it will be a separate and independent inquiry, canvassed very broadly and will take in community and industry views.

**Hon. C. A. STRONG** (Higinbotham) — The clear implication from that response is that the Essential Services Commission is not competent or trustworthy enough to carry out this inquiry, given that that is its role under the act to carry out such inquiries?

**Hon. T. C. THEOPHANOUS** (Minister for Energy Industries) — No, Mr Strong cannot reach that conclusion. The conclusion by the government was that this was such an important issue that we want to have an independent and separate inquiry which takes into account a range of community views and so on. The essential services commissioner accepts that view. He has told me that he will be very happy to cooperate with the government in having this particular inquiry.

**Hon. C. A. STRONG** (Higinbotham) — I am astounded that the minister wants an independent inquiry and therefore will not go to the Essential Services Commission. It seems to me that the Essential Services Commission under its act is the very body to which these inquiries should be directed. For the credibility of the whole system where there is seen to be an independent umpire set in place — namely, the Essential Services Commission — I would certainly urge the government to use the auspices of the commission to carry out that independent inquiry rather than simply saying, 'Because it wants an independent inquiry, the government will not go to the Essential Services Commission'. I find that an astounding assertion.

**Hon. T. C. THEOPHANOUS** (Minister for Energy Industries) — I do not want to extend this, and the government will not be extending this debate. I simply say to the member that we are having a separate inquiry and that the essential services commissioner is happy to be a part of assisting in that separate inquiry. I am sure the outcome of it will be something that will allow the community and everyone else to have their say.

**Hon. C. A. STRONG** (Higinbotham) — I would like to thank the minister for his answers. I must express some disappointment in them in that there is a bypassing of the independent umpire.

**Clause agreed to; clauses 14 to 26 agreed to.**

**Reported to house without amendment.**

**Report adopted.**

*Third reading*

**Hon. T. C. THEOPHANOUS** (Minister for Energy Industries) — I move:

That the bill be now read a third time.

In so doing, I thank honourable members for their contributions during the second-reading and committee debate.

**Motion agreed to.**

**Read third time.**

*Remaining stages*

**Passed remaining stages.**

## PUBLIC ADMINISTRATION BILL

*Introduction and first reading*

**Received from Assembly.**

**Read first time on motion of Mr LENDERS (Minister for Finance).**

## MULTICULTURAL VICTORIA BILL

*Introduction and first reading*

**Received from Assembly.**

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

## FAIR TRADING (ENHANCED COMPLIANCE) BILL

*Introduction and first reading*

**Received from Assembly.**

**Read first time on motion of Mr LENDERS (Minister for Consumer Affairs).**

## EMERGENCY SERVICES TELECOMMUNICATIONS AUTHORITY BILL

*Introduction and first reading*

**Received from Assembly.**

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

## CORRECTIONS AND MAJOR CRIME (INVESTIGATIVE POWERS) ACTS (AMENDMENT) BILL

*Introduction and first reading*

**Received from Assembly.**

**Read first time for Hon. T. C. THEOPHANOUS (Minister for Energy Industries) on motion of Mr Lenders.**

## ADJOURNMENT

**Mr LENDERS** (Minister for Finance) — I move:

That the house do now adjourn:

### Ferntree Gully Road, Mulgrave: upgrade

**Hon. ANDREW BRIDESON** (Waverley) — Through the Minister for Sport and Recreation, the Honourable Justin Madden, I seek to raise a road safety issue with the Minister for Transport in the other place, the Honourable Peter Batchelor. It concerns the speed limits in Ferntree Gully Road between Jells Road and Springvale Road. All members of Parliament have a serious concern about the road toll, and we generally take a bipartisan approach towards the reduction of accidents, injuries and fatalities. When travelling around my electorate I am constantly on the lookout for ways of improving road safety, whether that be by means of suggestions for improving infrastructure, for changing driver behaviour or for improvements to vehicle safety.

On the adjournment debate on 12 May I raised an issue concerning Ferntree Gully Road, when I requested that the minister spend approximately $1 million in surfacing one lane of what is an extremely busy road which carries 50 000 vehicles a day. Last week I was travelling west down Ferntree Gully Road from Jells Road, and from Jells Road to Lum Road three lanes are asphalted and the speed limit is 80 kilometres an hour.

Once you cross Lum Road the road narrows to two asphalted lanes and the speed limit is still 80 kilometres an hour. It is a very dangerous situation — travelling from three lanes, which converge to two lanes, and there are 50 000 vehicles doing that each day.

I would like the minister to have VicRoads review the speed limit on Ferntree Gully Road between Jells and Springvale roads with a view of reducing it from 80 to 70 kilometres an hour until that third lane has been asphalted, as per my previous request. I ask the minister to give that his earliest attention.

## Women: sexually transmitted diseases

**Ms CARBINES** (Geelong) — I wish to raise a matter with the Minister for Health in the other place, the Honourable Bronwyn Pike. It concerns issues seriously affecting the health of Victorian women — in particular, sexually transmitted diseases (STDs). It is of concern that the incidence of STDs such as AIDS and chlamydia among Victorian women is significantly increasing. Yesterday, World AIDS Day, the Country Aids Network Victoria issued a very grim warning to Victorian women. This morning's *Geelong Advertiser* contains an article entitled 'Rising risk to women'. In part it says:

> The number of Australian women infected with HIV/AIDS has steadily increased in recent years.
>
> Speaking on World AIDS Day, the Country Aids Network yesterday said women needed to think about the risk of the virus.
>
> State rural project officer Ian Comben said while most infections were still predominantly gay men, heterosexual notifications were rising.
>
> 'In Australia HIV has been rising in heterosexual contact, especially in women,' Mr Comben said.

This increasing incidence of AIDS and other STDs such as chlamydia is cause for much concern, particularly as often a sufferer is unaware they have an STD, which poses a serious threat to their own health and also to that of their partner. I therefore ask the minister what action she is able to take to increase awareness of STDs such as AIDS and chlamydia among Victorian women so they may reduce their chances of infection.

## Police: Eumemmerring Province

**Hon. G. K. RICH-PHILLIPS** (Eumemmerring) — I raise a matter for the attention of the Minister for Police and Emergency Services in the other place. It relates to the now critical shortage of police in Eumemmerring Province. Last week we saw the latest round of problems with policing in Eumemmerring, with the police at both the Narre Warren and Pakenham police stations seeking a meeting with the Police Association to advance the issue because there is now a critical shortage at both of those police stations.

Over the last four years, policing at Emerald and the shortage of police at that station has been an issue brought to the attention of the government time and again. The most recent example of a problem with the shortage of police at Emerald, which required that station to be closed, involved the need for a police response to an incident at Avonsleigh having to come from Narre Warren, which is over 30 kilometres away. Obviously that greatly extends the time in which police are able to respond to incidents.

Normally when the Emerald police station is forced to close due to shortages, it is served by the police station at Pakenham, but due to shortages there even that is proving not possible.

The people of Endeavour Hills are being told that at the end of this year they will supposedly see the new 24-hour police station open. I say 'supposedly' because it is now more than five years since that police station was promised. Opening a 24-hour police station in Endeavour Hills will take police resources from Narre Warren and from Dandenong, where there are already shortages in police numbers, and it will further exacerbate the problem of shortages in the region generally. Given that this has been an ongoing problem and given the possibility of industrial action by police in Narre Warren and Pakenham, I call on the minister to deliver on his promise to put more police into the region.

The latest police annual report shows that only 87 new police have come on to the force since the second term of this government, despite a promise of adding 600. The minister has not delivered on his promise. There is now a severe shortage of police in the south-east. I call on the minister to address that problem and get police into the south-east.

## Schools: Vietnamese language

**Hon. S. M. NGUYEN** (Melbourne West) — I raise a matter for the Minister for Education and Training, Lynne Kosky, in another place. In the past 12 months I have been approached by many Vietnamese parents and teachers concerning Vietnamese language teaching in Victoria. The number of classes has been reduced in mainstream schools. I am not talking about one or two schools but about many schools.

As members know, there are about 80 000 Vietnamese living in Melbourne, and many children attend a public school. Many were born in Australia or arrived here when they were young, so there is a demand from the Vietnamese parents to send their children to a school where they can study Vietnamese.

There is some confusion concerning the difference between the Saturday ethnic schools and the mainstream schools in terms of this language teaching, and many parents find it hard to decide whether they should send their children to school on a Saturday or just to a mainstream school during the week. It is confusing. There is a lack of information for the Vietnamese parents to explain the need or otherwise to do this before they decide to send their children to Saturday schools. Saturday school is run by ethnic committee organisations, but the mainstream schools involve more study time and students will be taught by professional teachers.

A public meeting was held on 18 September. About 80 people attended. Quite a few people such as Ms Carol Kelly, assistant general manager, learning program branch; Ms Wendy Morris, manager, languages and multicultural education; Ms Nellie Kostiw, acting manager, western metropolitan region, Department of Education and Training; and some school principals attended. The meeting was a great success, and I ask the minister to advise me what action the government is taking to ensure that the teaching of the Vietnamese language will be supported in schools.

## Building industry: warranty insurance

**Hon. C. A. STRONG** (Higinbotham) —I raise an issue tonight jointly with the Minister for Finance in this house and with the Minister for Planning in the other place regarding the Productivity Commission's review of building regulations that was released today.

I shall quote part of that Productivity Commission report into the building industry which goes to some of the problems with builders warranty insurance. At page 208 the commission says:

> ... there is a distinct likelihood that the insurance issue will cause the number of practices to substantially decline to just a few large practices who are able to carry the insurance premiums.

On page 209 it says:

> The inquiry found that Queensland is realising the benefit of a stable scheme that has been given time to mature and is underpinned by effective governance.

On the same page it further states:

> The Australian Consumers Association (2004a) also advocated a move towards the type of HBWI —

a building warranty scheme —

> already operating in Queensland, comprising lower premiums, more comprehensive insurance and so on.

I again ask both ministers to review the whole question of building warranty insurance, which is, as the Productivity Commission notes, reducing the number of practitioners in the field, thereby reducing competition, driving up prices and so on, and I ask them in that review to seek to redress the failings of consumer protection, which were so adequately highlighted by the Australian Consumers Association earlier this year.

## Housing: homelessness

**Hon. KAYE DARVENIZA** (Melbourne West) — The matter I wish to raise is for the attention of the Minister for Housing. It concerns the plight of people who find themselves homeless and who might in fact be in dispute with their service provider or may want to raise a complaint with that service provider.

We know that many people find themselves in the position of being homeless. They can range from quite young people who have been living at home with their parents or people who are little more than children themselves right through to young women who have small children and find themselves, as a result of a domestic dispute with their spouse or partner, in a homeless situation. All members of the house would be aware of constituents in their own areas who find themselves in this very difficult position.

The specific matter I raise with the minister relates to what action she or her department is taking to deal with complaints or disputes, or when homeless persons raise matters of concern when they find themselves in dispute with a service provider.

Often people who are homeless are unaware of their rights or how they might be able to go about making a complaint, and certainly action needs to be taken to provide for direct representation for people who find themselves in this position. Perhaps education to make them aware of their rights and their avenues of complaint is necessary.

I know the minister and the government have been involved in a whole range of initiatives and that they have put money in to fight homelessness and boost homelessness services right across the board. I know they have been providing additional workers as well as extra crisis beds and additional transitional properties.

But this is an issue, and I ask the minister what action she is taking to deal with this particular issue of complaints and concerns that a homeless person might want to raise with a service provider.

## Firearms: licences

**Hon. P. R. HALL** (Gippsland) — I wish to raise a matter with the Minister for Police and Emergency Services in the other place; it concerns an issue raised with me by my constituent Mr Gordon Cowling. Mr Cowling has been a licensed shooter all of his adult life and has been teaching students firearms safety and the use of shotguns and .22 target rifles at Gippsland Grammar for the last 26 years. He has undertaken things like a two-day course to become a qualified firearms safety instructor.

In 1988 Mr Cowling went to renew his licence for a period of five years. The only reason he wanted to renew it was that he wanted to continue to teach children firearms use and safety at Gippsland Grammar. At that stage he was able to list as the reason for wanting a firearms licence his being a firearms safety instructor. But when he went to renew his licence in 2003 he was informed that that category was no longer acceptable as a reason for holding a shooters licences. As he said to me in a letter:

> I do not know whether the decision to disallow this reason was made by the bureaucrats in the firearms registry or if it was a political decision. I have been in contact with our regional firearms officer and he cannot shed any light on the matter either.

Mr Cowling also points out that there are two other new members of staff who want to obtain their shooters licences purely for the purposes of teaching students how to shoot safely. The honest reason why they want a shooters licence is because they want to become firearms safety instructors.

My request is that the Minister for Police and Emergency Services give me an explanation as to why this reason for holding a shooters licence is no longer available, and moreover I seek the assistance of the minister to ensure that reason is reinstated so that these good people who teach firearms safety and use at Gippsland Grammar can honestly fill out their shooters licence application forms and obtain their licences for the purposes I have described.

## Rumbalara football club: league

**Ms ROMANES** (Melbourne) — I would like to raise a matter with the minister at the table, the Minister for Sport and Recreation, relating to the Rumbalara Football and Netball Club, an Aboriginal sporting club in Shepparton. I am aware that the minister recently gave Rumbalara one of his awards for its achievements in pursuing educational excellence and community programs through sport. Rumbalara is an excellent example of the role that football and netball clubs play in country towns. It spells out the importance of community building that such clubs play. It is an example of the kind of activity, pride, identification, social interaction and economic benefit that the Rural and Regional Services Development Committee outlined in its inquiry into country football in its report tabled earlier this week.

Gestures of reconciliation and initiatives to address disadvantage are very important and critical at this time — hence the walk of Michael Long to Canberra to talk to John Howard about these matters. I was therefore disturbed to learn just a few days ago that the Rumbalara football club was recently rejected 13 to nil when it applied to enter the senior football competition, the Goulburn Valley Football League, in the Shepparton Goulburn area. I understand that Rumbalara has been trying for years to enter an elite football competition and believes the skills development and recognition would keep Aboriginal players in the club to pursue further excellence. I ask the minister to investigate the reasons why the Rumbalara football club was denied entry into the Goulburn Valley Football League and whether any unreasonable or discriminatory barriers were placed in the way of the Rumbalara football club's moving into the senior Goulburn Valley league. Is there any action the minister can take to support the Rumbalara football club to pursue its objectives to play elite football in the Goulburn Valley league?

## Bogong High Plains Road: upgrade

**Hon. PHILIP DAVIS** (Gippsland) — I raise a matter for the attention of the Minister for Transport in the other place. Representations have been made to me over recent months by the Alpine and East Gippsland shire councils in connection with the Bogong High Plains Road. It is an unsealed road which connects the townships of Mount Beauty and Falls Creek in the Alpine shire with the Omeo Highway at Glen Valley in the East Gippsland shire. Prospectively it provides a significant touring route — a round trip if you like — for people whose destination is the high country and the snowfields, certainly in the non-winter period. It has long been identified as having significant potential for economic, social, tourism and environmental benefits. This has been underlined by an economic study conducted by VicRoads.

Sealing of the remaining section of the road is seen as vital to enhancing the attraction of an already recognised touring loop and reinforcing its overall strategic value. The many benefits include:

> ... to provide access between Omeo and Falls Creek, Mount Beauty and the Kiewa Valley for tourist traffic;
>
> to provide a better quality road network with improved emergency access and public safety;
>
> to provide a more comfortable, safer and better quality route with decreased travel times and savings on the wear and tear of vehicles benefiting tourists and residents of the region;
>
> to create tourism benefits and flow-on economic benefits for townships within the region and a touring route off the Great Alpine Road;
>
> to provide social benefits through the creation of a better link between Mount Beauty and Omeo via Falls Creek;
>
> to provide significant environmental benefits by reducing sedimentation and improving water quality, with stakeholders also expecting that the sealing of the route will protect the adjacent national park and high country area.

It is important that this project proceed. Sealing the remaining 31 kilometres of the gravel section of the Bogong High Plains Road would provide three-seasons access. Also of value would be the provision of interpretive infrastructure and signage, wayside stops, picnic facilities, toilets et cetera.

The project's estimated cost by VicRoads is $5.4 million for the sealing stage, with a total cost of up to $6 million including all the infrastructure and amenities. There is widespread support for this project from the Alpine shire, East Gippsland shire, Towong shire, the Falls Creek resort management board, the Mount Hotham management board and many government agencies. I therefore ask the minister to advise me what resources will be available to support the sealing of the Bogong High Plains Road.

## Disability services: early childhood intervention

**Hon. D. K. DRUM** (North Western) — My question is to the Minister for Community Services in the other place. I bring to her attention the crisis in the early childhood intervention services (ECIS) sector which provides vital intervention support services to children with developmental delays and lifelong disabilities, and to their families. I refer to an article in the *Herald Sun* of Monday, 29 November. I was so ashamed to read that the very children who are relying on us to protect, nurture and educate them are being denied the services they need to reach their greatest potential. The article states:

> At least 500 more Victorian children were born severely disabled last year than five years ago — a rise of 50 per cent.
>
> Compared with 1998, there were 3000 more severely disabled children under five in Victoria in June 2003, bringing the total to 11 700.
>
> This rise has forced thousands of parents to wait more than a year for support for their children, the Association for Children with a Disability said yesterday.

The present early childhood intervention services system is in a shambles. Parents dealing with grief and loss as they come to terms with their child's lifelong disability are forced by this government to wait for these critical services. They have no-one to turn to for help. Instead they are confronted by a long queue for services. This Labor government lacks the gumption to adequately fund these critical services. Victorian parents of children with disabilities have lost faith in this government. Its policies reek of rhetoric. It lacks the courage to put up the funding necessary to adequately fund its policies. What good is a policy if it is not supported with enough money to make it work?

A letter by Tim Bull from Bairnsdale published in the *Herald Sun* of Wednesday, 1 December states:

> The fact there are waiting lists for early intervention is a contradiction in terms and a disgrace. In the bush children are on autism early intervention lists for so long that, by the time they reach the top of the list, they are too old for early intervention.

I point out to the minister that the $6 million over four years put into the ECIS budget is so inadequate that it makes a mockery of the depth of this crisis. Incorporated in the $6 million are about 320 new places — not the 1200 places mentioned in the article, but 320 new recurrent places. There are 11 700 children under five years of age with a severe or profound disability, yet only 8000 ECIS places for children under six with a disability, leaving a shortfall of over 3700.

The minister's government has a duty of care, and as a matter of urgency she must make services for young children with autism and other disabilities a priority. She now has evidence from Australian Bureau of Statistics data that thousands of families are awaiting services. Why are there only 8000 early childhood intervention places for children aged under six when there are 11 700 in this age group needing services? So far the minister has failed to act on the pleas of grieving parents. Will she act on the evidence and provide the thousands of additional places required to give children with a disability the opportunity to reach their greatest potential?

## Responses

**Hon. J. M. MADDEN** (Minister for Sport and Recreation) — Mr Andrew Brideson raised the matter of speed limits in Ferntree Gully Road. I will refer this to the Minister for Transport in the other place.

Ms Elaine Carbines raised the matter of STDs and AIDS awareness for women in Victoria. I will refer this to the Minister for Health in the other place.

Mr Gordon Rich-Phillips raised the matter of Eumemmerring Province police issues. I will refer that to the Minister for Police and Emergency Services in the other place.

Mr Sang Nguyen raised the matter of Vietnamese language teaching in Victoria. I will refer that to the Minister for Education and Training in the other place.

Mr Chris Strong raised the matter of building warranty insurance. I will refer this to the Minister for Planning in the other place or to the Minister for Finance, or both, depending on who has responsibility for the areas involved.

Ms Kaye Darveniza raised the matter of homelessness, or those who are homeless who may be in dispute with a service provider. I will refer that to the Minister for Housing.

Mr Peter Hall raised the matter of shooters licences, particularly for those who are firearms safety instructors, and the application process. I will refer this to the Minister for Police and Emergency Services in the other place.

Ms Glenyys Romanes raised the matter of the Rumbalara football club. It was an appropriate question, given the timeliness of Michael Long's walk to Canberra. I want to compliment Michael on his courage and fortitude to pursue his objectives by making the trek to Canberra, and also those who have accompanied him on that journey. I know Paul Briggs, who is involved with Rumbalara, has been there for if not the entire trip a substantial component of it. I congratulate Paul Briggs and Michael Long for that journey, as well as anyone else who was on the trip, because I know there were about 30 or 40 people at any one time. I also note that Michael Long had a knee brace, so we appreciate that it was always going to be difficult for him physically as well as emotionally.

In recognising that and in responding more specifically to Ms Romanes's request, I am concerned and anxious about the matters she has raised in relation to the opportunities provided to Rumbalara, or lack thereof, to make progress within the elite football competitions within the region. I look forward to having departmental officers provide me with information about that matter and at some time making a journey to the football club, having visited it once before, to see if there is some way we can encourage the local football community to appreciate the significance of the Rumbalara football club for the Koori community in that region and the importance of their being involved in the highest elite football competition in that district.

Mr Philip Davis raised the matter of the Bogong High Plains Road. I will refer that to the Minister for Transport in the other place.

Mr Damian Drum was able to raise the matter of early childhood intervention services. I will refer that matter to the Minister for Community Services in the other place.

**Motion agreed to.**

**House adjourned 5.10 p.m.**

# QUESTIONS ON NOTICE

***Answers to the following questions on notice were circulated on the date shown.***
***Questions have been incorporated from the notice paper of the Legislative Council.***
***Answers have been incorporated in the form supplied by the departments on behalf of the appropriate ministers.***
***The portfolio of the minister answering the question on notice starts each heading.***

## Tuesday, 30 November 2004

### Information and communications technology: charter flights

**1491.** **THE HON. GORDON RICH-PHILLIPS** — To ask the Minister for Information and Communication Technology: Since 1 January 2003 to 30 March 2004, what are the details of all charter flights, including helicopters and light planes, used by the Minister and/or Minister's office, indicating in respect of each flight the — (i) date; (ii) carrier; (iii) destination; (iv) costs; and (v) purpose.

**ANSWER**:

I am informed that:

Details of charter flights From 1 January 2003 to 30 March 2004 are as follows:

(1)

(i) 31 March 2003
(ii) JetCity
(iii) Bairnsdale and Lakes Entrance
(iv) $646
(v) Community Cabinet meeting in Bairnsdale and Lakes Entrance

(2)

(i) 21 August 2003
(ii) Australasian Jet
(iii) Albury
(iv) $1,850
(v) Multi Media Victoria presentation in Wodonga

### Energy industries: Office of the Regulator-General — electricity company charges

**1567.** **THE HON. PHILIP DAVIS** — To ask the Minister for Energy Industries: What was the level/rate of commercial/industrial electricity supply and electricity usage charges and any other fees, levies, charges and taxes administered by each of the electricity companies regulated by the Office of the Regulator-General in October 1999 and what is their current level/rate.

**ANSWER**:

The retail electricity standard tariffs for 2004 for business consumers are available on the web site of the Essential Services Commission (at www.esc.vic.gov.au under 'Electricity', 'Pricing' and then the link to 'Energy Retail Tariffs for 2004').

The retail electricity "maximum uniform tariffs" for 1999 for business consumers are available on the web site of the Essential Services Commission (at www.esc.vic.gov.au under "Electricity", 'Pricing', 'Electricity Tariffs', 'Historical Tariffs and Charges', and then the links to "1998/99" and "Maximum Uniform Tariffs").

## Energy industries: gas company charges

**1568.** **THE HON. PHILIP DAVIS** — To ask the Minister for Energy Industries: What was the level/rate of residential gas supply and gas usage charges and any other fees, levies, charges and taxes administered by each of the various gas companies in October 1999 and what is their current level/rate.

**ANSWER**:

The retail gas standard tariffs for 2004 for residential consumers are available on the web site of the Essential Services Commission (at www.esc.vic.gov.au under 'Gas', 'Tariffs' and then the link to 'Energy Retail Tariffs for 2004').

The retail gas "maximum uniform tariffs" for 1999 for residential consumers are available on the web site of Craftsman Press (at www.craftpress.com.au – refer Gazette G50, dated 17 December 1998, commencing particularly at page 3162).

## Energy industries: industrial gas charges

**1569.** **THE HON. PHILIP DAVIS** — To ask the Minister for Energy Industries: What was the level/rate of commercial/industrial gas supply and gas usage charges and any other fees, levies, charges and taxes administered by each of the gas companies in October 1999 and what is their current level/rate.

**ANSWER**:

The retail gas standard tariffs for 2004 for business consumers are available on the web site of the Essential Services Commission (at www.esc.vic.gov.au under 'Gas', 'Tariffs' and then the link to 'Energy Retail Tariffs for 2004').

The retail gas "maximum uniform tariffs" for 1999 for business consumers are available on the web site of Craftsman Press (at www.craftpress.com.au – refer Gazette G50, dated 17 December 1998, commencing particularly at page 3162).

## Aboriginal affairs: Victorian Communities — people and community advocacy division — advertising

**1828.** **THE HON. RICHARD DALLA-RIVA —** To ask the Minister for Aboriginal Affairs: In relation to Aboriginal Affairs Victoria within the People and Community Advocacy Division of the Victorian Communities Department:

(a) What was the advertising expenditure in 1999-2000, 2000-01, 2001-02 and 2002-03, respectively.

(b) What was the credit card expenditure in 1999-2000, 2000-01, 2001-02 and 2002-03, respectively.

**ANSWER**:

I am informed as follows:

As the Department for Victorian Communities was established on the 5 December 2002, information on advertising and credit card expenditure is provided from that date.

(a) Advertising expenditure for the period 5 December 2002 to 30 June 2003 $13,194.60

(b) Credit card expenditure for the period 5 December 2002 to 30 June 2003 $121,349.10, which is comprised of the following:

| *Description* | *Expenditure* |
|---|---|
| Aboriginal Cultural Heritage Program Expenditure | $39,331.92 |
| Stationary & Equipment | $27,852.78 |
| Training & Professional Development | $24,220.26 |
| Indigenous Community Infrastructure Program | $10,585.36 |
| Indigenous Family Violence Strategy | $5,845.03 |
| Telephones & Communication | $5,750.43 |
| Meeting Expenses | $4,829.03 |
| Shepparton COAG Trial | $1,415.49 |
| Postage | $1,368.80 |
| Annual Card Fees | $150.00 |
| *Total* | *$121,349.10* |

## Gaming: private sector gifts

**3398.** **THE HON. RICHARD DALLA-RIVA** — To ask the Minister for Sport and Recreation (for the Minister for Gaming): Has the Minister received any gifts from the private sector up to the sum of $380 since being appointed a Minister of the Crown; if so — (i) who was the donor; (ii) what was the gift; (iii) what was the value of the gift; and (iv) was this gift disclosed in a declaration of a conflict of interest.

**ANSWER**:

I am advised that:

This is one of a number of questions seeking information in respect of gifts worth less than $380 received by Government Ministers. The Members of Parliament (Register of Interests) Act 1978 requires Members of Parliament to provide particulars of any gift they have received of or above the amount or value of $500. The limit of $500 was deemed appropriate by Parliament at the time the Act was passed for the reasons, which included that it would be both onerous and unnecessary to provide otherwise. This request will not be answered for the same reason.

## Aged care: Geoffrey Cutter nursing home — financial results

**3517.** **THE HON. ANDREA COOTE** — To ask the Minister for Aged Care:

(a) What was the financial result, profit/loss amount, for 2002-03 for the Geoffrey Cutter - Nursing Home.

(b) What is the status for achieving 2008 building accreditation standards for that facility.

(c) What further injection of funds by the Government will be required to ensure that the facility achieves 2008 building accreditation standards.

**ANSWER**:

I am informed that:

(a) Financial information is collected at agency level and is contained in the publicly available Annual Reports of that agency.

(b) The majority of services meet the 2008 building certification requirements. Government has committed to undertaking works to ensure all facilities will meet 2008 building certification requirements.

(c) Further injection of Government funds to ensure all facilities meet 2008 building certification requirements will be considered as part of the 2005-06 and 2006-07 budget processes.

## Energy industries: Monetary Units Act — fees and penalties

**3629.** **THE HON. PHILIP DAVIS** — To ask the Minister for Energy Industries: In relation to amendments made by the *Monetary Units Act 2004* to the *Electricity Industry Act 2000* and any subsequent Regulations:

(a) What fees and penalties were amended.

(b) What was the value of each of the fees and penalties immediately prior to these amendments.

(c) What is their value following indexation on 1 July 2004.

**ANSWER**:

The impact of the Monetary Units Act 2004 on fees and penalties which may be applied under the Electricity Industry Act 2000 and subordinate instruments is a matter of public record. Information on licence fees charged under the Act can be obtained from the Essential Services Commission.

## Energy industries: Monetary Units Act — fees and penalties

**3630.** **THE HON. PHILIP DAVIS** — To ask the Minister for Energy Industries: In relation to amendments made by the *Monetary Units Act 2004* to the *Gas Industry Act 2000* and any subsequent Regulations:

(a) What fees and penalties were amended.

(b) What was the value of each of the fees and penalties immediately prior to these amendments.

(c) What is their value following indexation on 1 July 2004.

**ANSWER**:

The impact of the Monetary Units Act 2004 on fees and penalties which may be applied under the Gas Industry Act 2001 and subordinate instruments is a matter of public record. Information on fees charged under the Act can be obtained from the Essential Services Commission and VenCorp

## Premier: Our Water Our Future — advertising campaign

**3719.** **THE HON. PHILIP DAVIS**— To ask the Minister for Finance (for the Premier):

(a) What has been the monthly cost of the "Our Water, Our Future" advertising campaign.

(b) Which media outlets were used for this campaign.

**ANSWER**:

I am informed that:

a) The cost has varied from month to month with the total cost of advertising for the Our Water Our Future campaign from 1 September 2003 to 30 June 2004 being $3,791,859.80 excluding GST and media levy.

b) Advertisements were placed on television, radio, transit signs, outdoor billboards as well as in metropolitan, local and ethnic press.

## Multicultural affairs: Victorian Multicultural Commission — freedom of information requests

**3897.** **THE HON. RICHARD DALLA-RIVA** — To ask the Minister for Aged Care (for the Minister for Multicultural Affairs): In relation to the Freedom of Information requests received by the Victorian Multicultural Commission between 1 July 2003 and 30 June 2004:

(1) How many requests were received.

(2) How many were —

(a) denied in full;

(b) released in part; and

(c) released in full.

(3) How many of these requests were given to the Minister before being given to the applicant.

**ANSWER**:

I am informed as follows:

(1) Two requests were received.

(2)

(a) Neither were denied in full;

(b) Two were released in part; and

(c) Neither were released in full.

(3) Neither were given to the Minister before being given to the applicant.

## Community services: young people in nursing homes

**3933.** **THE HON. ANDREA COOTE** — To ask the Minister for Aged Care (for the Minister for Community Services): How many young people were in Victorian nursing homes when the Government began its first term in 1999 and how many were there on 17 June 2003 and 17 September 2004, respectively.

**ANSWER**:

I am informed that:

– Under the terms of the Commonwealth State and Territories Disability Agreement, both Commonwealth and State jurisdictions share a responsibility for the funding of accommodation services for people with disabilities.

– Earlier this year, I met with the Federal Minister for Family and Community Services, Senator Kay Patterson, and raised with her the need to for both State and Federal Governments to work collaboratively on this issue. Senator Patterson agreed to explore a joint approach but has continued to be unresponsive to further community advocacy on the matter.

– The most comprehensive information on permanent residents in residential aged care services nationally, is published in annual reports prepared by the Australian Institute of Health and Welfare (AIHW), with data collected by Department of Health and Ageing (DOHA). These data, which are set out below, are reported for the group aged less than 65 years and for each five-year age cohort from 65 years.

– The number of permanent residents aged less than 65 years, in all residential aged care facilities in Victoria are as follows:

  – on 30 June 1999 there were 1,482 residents, or 4.5% of the total

  – on 30 June 2003 there were 1,444 residents, or 4.1% of the total

  – in March 2004 there were 1,536 residents, or 4.3% of the total.

– While the figures indicate an increase in the overall number of residents aged less than 65 years over the five-year period, this group has remained a fairly stable proportion of the total number of residents in all Residential Aged Care Services in Victoria

– The majority of people in residential aged care aged less than 65 are aged between 50 and 65 years. In March 2004, of the 1536 residents aged less than 65, 85 % were aged between 50 and 65 years.

– People aged less than 65 years in residential aged care services usually have complex clinical conditions and care needs and require a range of services, including nursing care provided by the Commonwealth. The Victorian Government recognises that residential aged care settings may not provide the most ideal environment and service model for some younger residents.

– In July 2004, the Department of Human Services initiated a Project to identify alternate accommodation options for younger people in nursing homes. The Project is due for completion in mid-2005.

– The Victorian Government recently funded a new residential service in Pellatt Street, Beaumaris, enabling a group of young people with disabilities to move out of aged care nursing homes into the community. Both the housing and support components of the project were supported with State Government funds, with no contribution from the Australian Government.

## Innovation: Baker Medical Research Institute — freedom of information requests

**4017.** **THE HON. RICHARD DALLA-RIVA** — To ask the Minister for Small Business (for the Minister for Innovation): In relation to the Freedom of Information requests received by the Baker Medical Research Institute between 1 July 2003 and 30 June 2004:

(1) How many requests were received.

(2) How many were —

  (a) denied in full;

  (b) released in part; and

  (c) released in full.

(3) How many were given to the Minister before being given to the applicant.

**ANSWER**:

I am informed as follows:

The Baker Medical Research Institute did not receive any Freedom of Information requests between 1 July 2003 and 30 June 2004.

## Innovation: Howard Florey Institute of Experimental Physiology and Medicine — freedom of information requests

**4018.** **THE HON. RICHARD DALLA-RIVA** — To ask the Minister for Small Business (for the Minister for Innovation): In relation to the Freedom of Information requests received by the Howard Florey Institute of Experimental Physiology and Medicine between 1 July 2003 and 30 June 2004:

(1) How many requests were received.

(2) How many were —

(a) denied in full;

(b) released in part; and

(c) released in full.

(3) How many were given to the Minister before being given to the applicant.

**ANSWER**:

I am informed as follows:

The Howard Florey Institute of Experimental Physiology and Medicine did not receive any Freedom of Information requests between 1 July 2003 and 30 June 2004.

## Innovation: Prince Henry's Institute of Medical Research — freedom of information requests

**4019.** **THE HON. RICHARD DALLA-RIVA** — To ask the Minister for Small Business (for the Minister for Innovation): In relation to the Freedom of Information requests received by the Prince Henry's Institute of Medical Research between 1 July 2003 and 30 June 2004:

(1) How many requests were received.

(2) How many were —

(a) denied in full;

(b) released in part; and

(c) released in full.

(3) How many were given to the Minister before being given to the applicant.

**ANSWER**:

I am informed as follows:

The Prince Henry's Institute of Medical Research did not receive any Freedom of Information requests between 1 July 2003 and 30 June 2004.

## Tourism: Australian Grand Prix Corporation — freedom of information requests

**4022.** **THE HON. RICHARD DALLA-RIVA** — To ask the Minister for Small Business (for the Minister for Tourism): In relation to the Freedom of Information requests received by the Australian Grand Prix Corporation between 1 July 2003 and 30 June 2004:

(1) How many requests were received.

(2) How many were —

(a) denied in full;

(b) released in part; and

(c) released in full.

(3) How many were given to the Minister before being given to the applicant.

**ANSWER**:

I am informed as follows:

Between 1 July 2003 and 30 June 2004, the Australian Grand Prix Corporation received one request under the *Freedom of Information Act 1982 (Vic)*. The request was denied in full. The Minister was kept informed of the Corporation's consideration of the request, however, the Minister was not given a copy of the relevant correspondence before it was provided to the applicant.

## Tourism: Emerald Tourist Railway Board — freedom of information requests

**4023.** **THE HON. RICHARD DALLA-RIVA** — To ask the Minister for Small Business (for the Minister for Tourism): In relation to the Freedom of Information requests received by the Emerald Tourist Railway Board between 1 July 2003 and 30 June 2004:

(1) How many requests were received.

(2) How many were —

(a) denied in full;

(b) released in part; and

(c) released in full.

(3) How many were given to the Minister before being given to the applicant.

**ANSWER**:

I am informed as follows:

There were no Freedom of Information requests received by the Emerald Tourist Railway Board between 1 July 2003 and 30 June 2004.

## Tourism: Melbourne Convention and Exhibition Trust — freedom of information requests

**4024.** **THE HON. RICHARD DALLA-RIVA** — To ask the Minister for Small Business (for the Minister for Tourism): In relation to the Freedom of Information requests received by the Melbourne Convention and Exhibition Trust between 1 July 2003 and 30 June 2004:

(1) How many requests were received.

(2) How many were —

(a) denied in full;

(b) released in part; and

(c) released in full.

(3) How many were given to the Minister before being given to the applicant.

**ANSWER**:

I am informed as follows:

Between 1 July 2003 and 30 June 2004, the Melbourne Convention and Exhibition Trust received three (3) requests under the *Freedom of Information Act 1982 (Vic).* The requests were released in full. The Minister was kept informed of the Trust's consideration of the requests; however, the Minister was not given copies of relevant correspondence before being provided to the applicant.

## State and regional development: Overseas Projects Corporation of Victoria — freedom of information requests

**4025.** **THE HON. RICHARD DALLA-RIVA** — To ask the Minister for Small Business (for the Minister for State and Regional Development): In relation to the Freedom of Information requests received by the Overseas Projects Corporation of Victoria between 1 July 2003 and 30 June 2004:

(1) How many requests were received.

(2) How many were —

(a) denied in full;

(b) released in part; and

(c) released in full.

(3) How many were given to the Minister before being given to the applicant.

**ANSWER**:

I am informed as follows:

There were no Freedom of Information requests received by the Overseas Projects Corporation of Victoria between 1 July 2003 and 30 June 2004.

## State and regional development: alcohol purchases

**4045.** **THE HON. RICHARD DALLA-RIVA** — To ask the Minister for Small Business (for the Minister for State and Regional Development): In relation to alcohol purchased by the Minister's Office since 1 January 2002, what was the —

(a) date of each purchase;

(b) value of each purchase; and

(c) items purchased.

**ANSWER**:

I am informed as follows:

There was no alcohol purchased by my Ministerial Office since January 2002.

## Small business: alcohol purchases

**4068.** **THE HON. RICHARD DALLA-RIVA** — To ask the Minister for Small Business: In relation to alcohol purchased by the Minister's Office since 1 January 2002, what was the —

(a) date of each purchase;

(b) value of each purchase; and

(c) items purchased.

**ANSWER**:

I am informed as follows:

The was no alcohol purchased by my Ministerial Office since 1 January 2002.

## Innovation: alcohol purchases

**4071.** **THE HON. RICHARD DALLA-RIVA** — To ask the Minister for Small Business (for the Minister for Innovation): In relation to alcohol purchased by the Minister's Office since 1 January 2002, what was the —

(a) date of each purchase;

(b) value of each purchase; and

(c) items purchased.

**ANSWER**:

I am informed as follows:

There was no alcohol purchased by my Ministerial Office since January 2002.

## Tourism: alcohol purchases

**4073.** **THE HON. RICHARD DALLA-RIVA** — To ask the Minister for Small Business (for the Minister for Tourism): In relation to alcohol purchased by the Minister's Office since 1 January 2002, what was the —

(a) date of each purchase;

(b) value of each purchase; and

(c) items purchased.

**ANSWER**:

I am informed as follows:

The total amount of hospitality and meeting expenses for the Minister for Tourism's Office since 1 January 2002 was less than 2% of the total non-salary budget for the same period. The Department's finance records indicate costs were predominantly light luncheons and coffee while dealing with business clients, representing approximately one claim per month over this period.

A more detailed analysis of each invoice to determine any minor alcohol associated costs (if any) is considered to be an unnecessary burden on the Department's resources, given the small costs involved.